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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF THE ARMY

Effective upon publication in the FEDERAL REGISTER § 6.105 (l) (1) is amended to read as follows:

§ 6.105 *Department of the Army.*

* * *

(l) *Medical Department.* (1) Until June 30, 1953, the position of Technical Director of Research.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633. E. O. 9830, Feb. 24, 1947, 12 F. R. 1259; 3 CFR, 1947 Supp. E. O. 9973, June 28, 1948, 13 F. R. 3600; 3 CFR, 1948 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] ROBERT RAMSPECK,
Chairman.

[F. R. Doc. 52-7632; Filed, July 11, 1952; 8:46 a. m.]

Chapter II—The Loyalty Review Board

PART 210—THE OPERATIONS OF THE LOYALTY REVIEW BOARD

MISCELLANEOUS AMENDMENTS

1. Paragraph (g) of § 210.9 is amended to read as follows:

§ 210.9 *Action on appeals.* * * *

(g) *Review of decision of panel.* No review by this Board of a decision of a panel will be permitted except upon the concurrence of a majority of the members present at a duly called meeting of the Board.

2. Appendix A to Part 210; List of Organizations Designated by the Attorney General Pursuant to Executive Order No. 9835 is amended as follows:

a. Under the heading Communist—9, the item "American Russian Institute, New York—11" is amended to read as follows:

American Russian Institute, New York—11, also known as the American-Russian Institute for Cultural Relations with the Soviet Union—28.

b. Insert under the item "Communist Political Association—2, its subdivisions, subsidiaries and affiliates, including—14, 23; after the item "Florida Press and Educational League—14," the following:

Oklahoma League for Political Education—29.

c. Under the heading Subversive—9, insert under the item "Communist Political Association—2, its subdivisions, subsidiaries and affiliates, including—14, 23;" after the item "Florida Press and Educational League—14," the following:

Oklahoma League for Political Education—29.

d. Under the heading Organizations Which "Seek to Alter the Form of Government of the United States by Unconstitutional Means—9," insert under the item "Communist Political Association—2, its subdivisions, subsidiaries, and affiliates, including—14, 23;" after the item "Florida Press and Educational League—14," the following:

Oklahoma League for Political Education—29.

e. Under the heading Notes, add the following notes No. 28 and No. 29:

28. On April 23, 1952, the Department of Justice stated this is another name for the organization, which has used the two names interchangeably, and that the Attorney General's designation of the American-Russian Institute, New York (see note 11), covered the organization under any name by which it was known or self-described. Information disseminated April 30, 1952.

29. In his letter of May 22, 1952, disseminated May 28, 1952, the Attorney General referred to previous statements (see notes 25, 23, 14) that the designations of the Communist Party, U. S. A. and of the Communist Political Association include all subdivisions thereof; and stated that the Oklahoma League for Political Education which operated for a period of time as the subdivision in Oklahoma of the Communist Political Association was, therefore, designated within the same three categories as the parent organization.

(Part III, E. O. 9835, Mar. 21, 1947, 12 F. R. 1935; 3 CFR 1947 Supp.)

LOYALTY REVIEW BOARD,
UNITED STATES CIVIL SERVICE COMMISSION,
HIRAM BINGHAM,
Chairman.

[F. R. Doc. 52-7619; Filed, July 11, 1952; 8:46 a. m.]

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Lemon Reg. 443]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF SHIPMENTS

§ 953.550 *Lemon Regulation 443*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 14 F. R. 3612), regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified in this section was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on July 9, 1952; such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., July 13, 1952, and ending at 12:01 a. m., P. s. t., July 20, 1952, is hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 600 carloads;

(iii) District 3: Unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said amended marketing agreement and order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," "prorate base," "District 1," "District 2" and "District 3," shall have the same meaning as when used in the said amended marketing agreement and order.

(48 Stat. 31, as amended; 7 U. S. C. 601)

Done at Washington, D. C. this 10th day of July 1952.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

PRORATE BASE SCHEDULE

[Storage date: July 6, 1952]

DISTRICT NO. 2

[12:01 a. m. July 13, 1952, to 12:01 a. m. July 27, 1952]

Handler	*Prorate base (percent)*
Total	100.000
American Fruit Growers, Inc., Corona	.385
American Fruit Growers, Inc., Fullerton	.520
American Fruit Growers, Inc., Upland	.347

PRORATE BASE SCHEDULE—Continued

DISTRICT NO. 2—continued

Handler	Prorate base (percent)
Eadington Fruit Co.	0.239
Ventura Coastal Lemon Co.	2.179
Ventura Pacific Co.	2.633
Glendora Lemon Growers Association	1.253
La Verne Lemon Association	.613
La Habra Citrus Association	1.323
Yorba Linda Citrus Association, The	.672
Escondido Lemon Association	2.617
Alta Loma Heights Citrus Association	.765
Etiwanda Citrus Fruit Association	.325
Mountain View Fruit Association	.260
Old Baldy Citrus Association	.852
San Dimas Lemon Association	.988
Upland Lemon Growers Association	6.119
Central Lemon Association	.953
Irvine Citrus Association	.976
Placentia Mutual Orange Association	.555
Corona Citrus Association	.340
Corona Foothill Lemon Co.	3.278
Jameson Co.	.751
Arlington Heights Citrus Co.	.991
College Heights Orange & Lemon Association	2.657
Chula Vista Citrus Association, The	1.048
Escondido Co-operative Citrus Association	.223
Fallbrook Citrus Association	1.897
Lemon Grove Citrus Association	.371
Carpinteria Lemon Association	3.041
Carpinteria Mutual Citrus Association	2.947
Goleta Lemon Association	4.252
Johnston Fruit Co.	5.641
Hazeltine Packing Co.	.404
North Whittier Heights Citrus Association	.779
San Fernando Heights Lemon Association	.492
Sierra Madre-Lamanda Citrus Association	.467
Briggs Lemon Association	2.854
Culbertson Lemon Association	1.443
Fillmore Lemon Association	.960
Oxnard Citrus Association	5.909
Rancho Sespe	1.054
Santa Clara Lemon Association	3.422
Santa Paula Citrus Fruit Association	3.275
Saticoy Lemon Association	4.154
Seaboard Lemon Association	4.649
Somis Lemon Association	3.709
Ventura Citrus Association	1.110
Ventura County Citrus Association	.451
Limoneira Co.	3.195
Teague-McKevett Association	.739
East Whittier Citrus Association	.585
Leffingwell Rancho Lemon Association	.724
Murphy Ranch Co.	1.844
Chula Vista Mutual Lemon Association	.567
Index Mutual Association	.385
La Verne Co-operative Citrus Association	1.992
Orange Belt Fruit Distributors	.520
Ventura County Orange & Lemon Association	2.030
Whittier Mutual Orange & Lemon Association	.112
Allen, Floyd L.	.000
Evans Bros. Packing Co.	.000
Huarte, Joseph D.	.000
Latimer, Harold	.034
MacDonald Fruit Co.	.000
Paramount Citrus Association	.129
Torn Ranch	.001
Valdora, Albert	.000

[F. R. Doc. 52-7705; Filed, July 11, 1952; 8:56 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 42-13]

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

SPECIAL OPERATION RULES FOR NIGHT VFR FLIGHTS; FLIGHT PLANS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 7th day of July 1952.

At the present time Part 42 of the Civil Air Regulations requires neither the use of navigational aids nor the making of position reports for night VFR flights. Since the regulations do not prohibit off-airway flights, a correct track over the ground is especially important for such flights with respect to terrain clearance. On off-airway flights large deviations from the intended track are very possible due to the limited navigational facilities available which thereby increase the danger of flying into unexpected high terrain.

Although it was recently proposed to restrict night VFR flights in large passenger-carrying airplanes to civil airways and approved ADF routes, constructive comment received by the Board has indicated that such a regulation would be unduly restrictive. Accordingly, this amendment will allow the use of off-airway routes for which the Administrator has established minimum en route instrument altitudes, provided that flight is conducted at or above such established altitudes. In addition, the Administrator may authorize operations at airports not equipped with radio navigational aids when he finds that safe transition between the route and the airport may be made visually under specified weather minimums.

The Board considers that night operations in large passenger-carrying aircraft are sufficiently similar to instrument operations to justify requiring a radio listening watch to be maintained as well as position reports at designated reporting points. These requirements are also included in the new regulation.

An additional problem has been met with respect to the filing of flight plans for the operation of any large aircraft. Present § 42.61 does not prevent an IFR flight plan from being cancelled while en route without refiling a VFR flight plan. Accordingly this amendment will require either an IFR or VFR flight plan to be in effect during the entire flight. This, then, will insure that the proper personnel will be advised when a plane is overdue or missing so that search and rescue facilities may be alerted and dispatched with a minimum of delay.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 42 of the Civil Air Regulations (14 CFR Part 42, as amended) as follows, effective August 11, 1952:

1. By adding the following sentence at the end of § 42.61: "An IFR or VFR flight plan must thereafter be in effect for all portions of the flight."

2. By inserting a new § 42.63 to read as follows:

§ 42.63 *Night VFR operations for large passenger-carrying aircraft; special rules.* (a) Night VFR passenger operations in large aircraft shall be conducted only over civil airways or over off-airway routes for which the Administrator has established minimum en route instrument altitudes. Night VFR operations over such off-airway routes shall be conducted at or above such established altitudes. In addition, night VFR operations may be conducted only at airports equipped with satisfactory radio navigational facilities for which the Administrator has established approach procedures: *Provided*, That the Administrator may authorize operations at other airports upon finding that safe transition between the route and the airport may be made visually under weather minimums which he may establish, but which will in no case be lower than those provided in § 42.55 (a).

NOTE: Minimum en route instrument altitudes which have been established by the Administrator are published in the Flight Information Manual.

(b) During night VFR passenger operations in large aircraft the pilot-in-command of the aircraft shall ensure that a continuous watch is maintained on the appropriate radio frequencies and shall report by radio as soon as possible the time and altitude of passing each designated reporting point together with weather conditions and any other information which the pilot considers important to the safety of flight. In addition, in operations over off-airway routes the pilot-in-command shall report as soon as possible the time and altitude of passing over each check point specified in the flight plan.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 604, 52 Stat. 1007, 1010; 49 U. S. C. 551, 554)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 52-7672; Filed, July 11, 1952; 8:57 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 516—RECORDS TO BE KEPT BY EMPLOYERS

MISCELLANEOUS AMENDMENTS

Notice was published in the FEDERAL REGISTER on March 20, 1952, of a proposal to amend the regulations contained in this part by adding certain provisions as to records to be kept with respect to minors whose employment may be subject to the child labor provision of the Fair Labor Standards Act. The notice pointed out that by virtue of the provisions of section 13 (c) of the act the child labor prohibitions of the act do not apply to any employee employed in

agriculture "outside of school hours for the school district where such employee is living while so employed," and that experience in applying this exemption has demonstrated the need for maintenance of records which would show compliance or non-compliance with the conditions of the exemption. The notice invited interested persons to submit data, views or arguments pertaining to the proposed record-keeping requirements.

Following publication of this notice comments were received from a large number of individuals and groups interested in this matter. A number of submissions expressed opposition to the proposed record-keeping requirements, particularly the requirement of keeping a daily record of starting and stopping time of each period of work, on the ground that keeping of such detailed records would be burdensome to farmers, and that their practical effect would be to deny to many young workers the opportunity for occasional employment.

After consideration of all of the views and comments submitted, and after a thorough review of the existing record-keeping regulations as they affect employers of agricultural labor, the conclusion has been reached that those records which are currently required under § 516.15 for employees employed in agriculture are not essential to proper enforcement of the Fair Labor Standards Act and should therefore be eliminated. The elimination of this requirement will relieve farm employers of the obligation which they previously had for the maintenance of records for adult employees generally.

It has also been concluded that in regard to the proposed child labor record-keeping requirements contained in the FEDERAL REGISTER notice of March 20, 1952, adequate enforcement of the act can probably be achieved through employment records listing certain minimum data such as name, address and date of birth. The additional requirements, contained in the March 20 proposal, as to occupation, place of employment and starting and stopping time of each period of work, will not therefore be adopted.

Accordingly, by virtue of authority conferred by sections 11 (c) and 12 of the Fair Labor Standards Act, as amended (52 Stat. 1066; 29 U. S. C. 211), Reorganization Plan No. 6 of 1950 (64 Stat. 1236; 5 U. S. C. 1332-15) and Reorganization Plan No. 2 of 1946 (60 Stat. 1095) the regulations in this part are hereby amended as follows:

1. Section 516.15 is amended by deleting the reference to section 13 (a) (6) in both the section heading and the text.

2. A new section designated § 516.24 is added as follows:

§ 516.24 *Minors employed in agriculture*—(a) *Items required.* Every employer (other than a parent or guardian standing in the place of a parent employing his own child or a child in his custody) who employs in agriculture any minor under 18 years of age shall maintain and preserve records containing the following data with respect to each and every such minor so employed:

(1) Name in full.

(2) Place where minor lives while employed. If the minor's permanent address is elsewhere give both addresses.

(3) Date of birth.

Provided, however, That such data need not be maintained for any minor employee who works only on days when school is not in session.

These amendments shall be effective 30 days from date of publication of this notice in the FEDERAL REGISTER.

(Sec. 11, 52 Stat. 1066; 29 U. S. C. 211)

Signed at Washington, D. C., this 1st day of July 1952.

MICHAEL J. GALVIN,
Acting Secretary of Labor.
WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 52-7655; Filed, July 11, 1952; 8:54 a. m.]

PART 672—CONSTRUCTION, BUSINESS SERVICE, MOTION PICTURE, AND MISCELLANEOUS INDUSTRIES IN PUERTO RICO, MINIMUM WAGE ORDER

Pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001), notice was published in the FEDERAL REGISTER on June 21, 1952 (17 F. R. 5615) of my decision to approve the minimum wage recommendations of Special Industry Committee No. 11 for Puerto Rico for the Construction, Business Service, Motion Picture, and Miscellaneous Industries in Puerto Rico, and the revised wage order for that industry which I proposed to issue to carry such recommendations into effect was published therewith. Interested parties were given an opportunity to submit exceptions within 15 days from the date of publication of the notice.

No exceptions have been received within the 15-day period.

Accordingly, pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201), the said decision is hereby affirmed and made final, and the wage order contained in this part is hereby revised to read as set forth in the June 21, 1952, issue of the FEDERAL REGISTER (17 F. R. 5615), and as set forth below, to become effective on August 11, 1952.

Sec.
672.1 Wage rates.
672.2 Notices of order.
672.3 Definitions of the construction, business service, motion picture, and miscellaneous industries in Puerto Rico and its divisions.

AUTHORITY: §§ 672.1 to 672.3 issued under sec. 8, 63 Stat. 915; 29 U. S. C. 208. Interpret or apply sec. 5, 63 Stat. 911; 29 U. S. C. 205.

§ 672.1 *Wage rates.* (a) Wages at a rate of not less than 50 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the construction division of the construction, business service, motion picture, and miscellaneous industries in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

(b) Wages at a rate of not less than 55 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the motion picture division of the construction, business service, motion picture, and miscellaneous industries in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

(c) Wages at a rate of not less than 65 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the business service, and miscellaneous industries division of the construction, business service, motion picture, and miscellaneous industries in Puerto Rico who is engaged in commerce or in the production of goods for commerce.

§ 672.2 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the construction, business service, motion picture, and miscellaneous industries in Puerto Rico shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Division may prescribe.

§ 672.3 *Definitions of the construction, business service, motion picture, and miscellaneous industries in Puerto Rico and its divisions.* (a) The construction business service, motion picture, and miscellaneous industries in Puerto Rico to which this part shall apply is hereby defined as follows:

Construction of buildings, structures and other improvements (including designing; reconstruction; alteration; repair and maintenance; assembling and installation at the construction site of machinery and other facilities; and dismantling, wrecking or other demolition); the production and distribution of motion pictures; the production of photographs and blueprints; the activity carried on by any business or non-profit enterprise performing real estate, professional, advertising, education or research activities, or engaged in the furnishing of other facilities or services to industrial or commercial establishments or the consumer; and all activities which are not included in the definitions of other industries in Puerto Rico for which wage orders have been issued:

Provided, however, That the definition shall not include (1) construction carried on by persons, for their own use or occupancy, who are principally engaged in another industry, or (2) any activity included in the definition of any industry in Puerto Rico for which a wage order has been issued.

(b) The separable divisions of the industry, as defined in paragraph (a) of this section, to which this part and its several provisions shall apply, are hereby defined as follows:

(1) *Construction division.* This division consists of the construction (except when carried on by persons, for their own use or occupancy, who are principally engaged in another industry) of buildings, structures, and other improvements, including, but without limitation, designing, reconstruction, alteration, repair and maintenance, assembling and installation at the construction site of machinery and other facilities, and dismantling, wrecking, or other demolition.

(2) *Motion picture division.* This division consists of the production and distribution of motion pictures.

(3) *Business service and miscellaneous industries divisions.* This division consists of the production of photographs and blueprints; the activity carried on by any business or nonprofit enterprise performing real estate, professional, advertising, education or research activities, or engaged in the furnishing of other facilities or services to industrial or commercial establishments or the consumer; and all activities which are not included in the definition of other industries in Puerto Rico for which wage orders have been issued.

Signed at Washington, D. C., this 9th day of July 1952.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 52-7656; Filed, July 11, 1952; 8:54 a. m.]

PART 675—LUMBER AND WOOD PRODUCTS INDUSTRIES IN PUERTO RICO, MINIMUM WAGE ORDER

Pursuant to the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001), notice was published in the FEDERAL REGISTER June 18, 1952 (17 F. R. 5480-5481), of my decision to approve the minimum wage recommendations of Special Industry Committee No. 11 for the Lumber and Wood Products Industry in Puerto Rico, and the revised wage order for that industry which I proposed to issue to carry such recommendations into effect was published therewith. Interested parties were given an opportunity to submit exceptions within 15 days from the date of publication of notice.

Exceptions were filed by the United Furniture Workers of America (CIO). The exceptions raised no new matters which would require any change or modification of my previous decision.

Accordingly, pursuant to authority under the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U. S. C. 201), the said decision is hereby affirmed and made final, the recommendations of the Committee for the Lumber and Wood Products Industry in Puerto Rico are hereby approved, and the wage order contained in this part is hereby revised to read as set forth in the June 18, 1952 issue of the FEDERAL REGISTER (17 F. R. 5480-5481), and as set forth below, to become effective August 11, 1952.

Sec.
675.1 Wage rates.
675.2 Notices of order.
675.3 Definitions of the lumber and wood products industry in Puerto Rico and its divisions.

AUTHORITY: §§ 675.1 to 675.3 issued under sec. 8, 63 Stat. 915; 29 U. S. C. 208. Interpret or apply sec. 5, 63 Stat. 911; 29 U. S. C. 205.

§ 675.1 *Wage rates.* (a) Wages at a rate of not less than 42 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the lumber and millwork division of the lumber and wood products industry in Puerto Rico, who is engaged in commerce or in the production of goods for commerce.

(b) Wages at a rate of not less than 38 cents per hour shall be paid under section 6 of the Fair Labor Standards Act of 1938, as amended, by every employer to each of his employees in the furniture, woodenware, and miscellaneous wood products division of the lumber and wood products industry in Puerto Rico, who is engaged in commerce or in the production of goods for commerce.

§ 675.2 *Notices of order.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the lumber and wood products industry in Puerto Rico shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this order as shall be prescribed, from time to time, by the Wage and Hour Division of the United States Department of Labor and shall give such other notice as the Division may prescribe.

§ 675.3 *Definitions of the lumber and wood products industry in Puerto Rico and its divisions.* (a) The lumber and wood products industry in Puerto Rico, to which this part shall apply, is hereby defined as follows:

Logging and the manufacture of all products made from lumber, wood and related materials, including but without limitation, sawmill and planning and plywood mill products; furniture and office and store fixtures; boxes and containers; cooperage; window and door screens and blinds; caskets and coffins; matches; wood preserving; trays, bowls and other wooden ware; excelsior, cork, bamboo, rattan, and willowware articles such as hampers, baskets, coasters, and table pads; and charcoal: *Provided, however,* That the definition shall not include any product or activity included in the rubber, straw, hair and related products industry (as defined in Administrative Order No. 417 (16 F. R. 12912) appointing Special Industry Committee No. 11 for Puerto Rico), or in the metal, plastics, machinery, instrument, transportation equipment, and allied industries; the handicraft products industry; the paper, paper products, printing, publishing, and related products industry; the construction, business service, motion picture, and miscellaneous industries; or the button, buckle, and jewelry industry (as defined in the wage orders for these industries in Puerto Rico).

(b) The separable divisions of the industry, as defined in paragraph (a) of this section, to which this part and its several provisions shall apply, are hereby defined as follows:

(1) *Lumber and millwork division.* This division consists of logging and the manufacture of sawmill and planing and plywood mill products; millwork including sash, doors, moldings, window frames, window and door screens and blinds, and similar building materials.

(2) *Furniture, woodenware and miscellaneous wood products division.* This division shall consist of the manufacture of all products in the lumber and wood products industry as defined in paragraph (a) of this section, except those products coming within the lumber and millwork division as defined in subparagraph (1) of this paragraph.

Signed at Washington, D. C., this 9th day of July 1952.

WM. R. MCCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 52-7657; Filed, July 11, 1952; 8:54 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

Subchapter B—Bureau of the Public Debt

[1952 Dept. Circ. 750, Revised, Amdt. 2]

PART 321—REGULATIONS GOVERNING PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS IN CONNECTION WITH THE REDEMPTION OF UNITED STATES SAVINGS BONDS

MISCELLANEOUS AMENDMENTS

JULY 7, 1952.

Sections 321.4 (b), 321.9 (a) and 321.12 (first sentence) of Department Circular No. 750, Revised, dated June 30, 1945, as amended (31 CFR 321), are hereby amended to read as follows:

§ 321.4 *Meaning of terms in this part.* * * *

(b) "Bond(s)" shall include only United States Savings Bonds of Series A, B, C, D or E, including bonds of Series E designated Defense Savings Bonds or War Savings Bonds. (Savings Bonds of Series F, G, H, J and K are not included.)

* * * * *

§ 321.9 *Specific limitations of payment authority.* * * *

(a) If the bond is presented for payment less than two months from the issue date (the issue date should not be confused with the date appearing in the issuing agent's dating stamp). Any payment or advance to a bond owner before a bond is eligible for redemption is not authorized in any circumstance.

* * * * *

§ 321.12 *Determination of redemption values and payment of bonds.* The re-

demption value of a bond is determined according to the period of time that it has been outstanding, and the table of redemption values applicable to each bond. * * *

(Sec. 22, 49 Stat. 41, as amended; 31 U. S. C. 757c)

Compliance with the notice, public procedure, and effective date requirements of the Administrative Procedure Act (Pub. Law 404, 79th Cong.; 60 Stat. 237) is found to be impracticable and unnecessary with respect to this amendment since it is issued to conform with the savings bond regulations 17 F. R. 4871.

[SEAL] JOHN W. SNYDER,
Secretary of the Treasury.

[F. R. Doc. 52-7659; Filed, July 11, 1952; 8:54 a. m.]

TITLE 32—NATIONAL DEFENSE

Subtitle C—Other Regulations Relating to National Defense

Chapter XVII—Federal Civil Defense Administration

PART 1707—UNITED STATES CIVIL DEFENSE CORPS

The following regulations, which consist of Part 1707, United States Civil Defense Corps, are hereby issued.

Sec.
1707.1 Purpose.
1707.2 Definitions.
1707.3 Establishment of the United States Civil Defense Corps.
1707.4 Basic civil defense services.
1707.5 Eligibility.
1707.6 Registration, training, appointment and status.
1707.7 Suspension or termination of membership.
1707.8 Organization and command.
1707.9 Supplementary rules, regulations and orders.
1707.10 Certification of qualification.

AUTHORITY: §§ 1707.1 to 1707.10 issued under sec. 401, 64 Stat. 1254; 50 U. S. C. App. Sup. 2253. Interpret or apply sec. 405, 64 Stat. 1256; 50 U. S. C. App. Sup. 2257.

§ 1707.1 *Purpose.* The purpose of the regulations in this part is to provide minimum standards for State and local civil defense organizations in order to achieve the degree of uniformity necessary for effective and coordinated civil defense planning and operations. State and local civil defense organizations meeting such standards will be known collectively as the United States Civil Defense Corps and such organizations and the members thereof will be eligible for such benefits as may derive from Federal civil defense legislation applicable thereto.

§ 1707.2 *Definitions.* The terms which appear in these regulations shall be construed in the following manner unless otherwise clearly required by the context:

(a) "Administrator" means the Federal Civil Defense Administrator.

(b) "Civil Defense Corps" means a civil defense organization meeting the standards prescribed in this part, duly established or authorized by a State or any political subdivision thereof.

(c) "Civil Defense Director" means the person or body having authority over a Civil Defense Corps and any duly authorized designee of such person or body. Such term shall refer to a State or local civil defense director, or both, depending upon the applicability of the reference under the State's laws or requirements thereunder.

(d) "Member" means a person who has been duly appointed to membership in a Civil Defense Corps and whose membership has not been suspended or terminated, or a person obligated to perform civil defense duties by reason of service or employment pursuant to State laws or requirements thereunder. A person who is a member of a Civil Defense Corps shall be deemed to be a member of the United States Civil Defense Corps.

(e) "Registrant" means a person who has registered for membership in a Civil Defense Corps, but who has not qualified and been appointed a member and whose registrant status has not been suspended or terminated.

(f) "State" means any State, Territory or possession of the United States and the District of Columbia.

(g) "The United States Civil Defense Corps" means the aggregate of the Civil Defense Corps and includes the individuals who are members of such Civil Defense Corps.

§ 1707.3 *Establishment of the United States Civil Defense Corps.* States empowered by State authority to establish civil defense organizations or forces are hereby authorized to qualify them pursuant to § 1707.10 as Civil Defense Corps, to be known collectively as the United States Civil Defense Corps.

§ 1707.4 *Basic civil defense services.* (a) The basic operational services of members may consist of the following:

(1) *Communications.* Operates civil defense attack warnings and communications systems.

(2) *Engineering.* Provides for the emergency restoration of facilities for essential utilities, transportation and other vital community services.

(3) *Fire.* Contains and extinguishes fires resulting from enemy attack.

(4) *Health.* Renders necessary civilian health and medical services in event of enemy attack; monitors, detects, identifies and measures the presence and minimizes the effect of atomic, radiological, chemical or biological agents and materials in attacked areas.

(5) *Police.* Protects life and property, maintains law and order; regulates and controls traffic to expedite the movement of emergency vehicles and personnel; detects, isolates and reports unexploded ordnance.

(6) *Rescue.* Removes entrapped and injured persons from damaged buildings and structures; administers necessary first-aid to victims.

(7) *Staff.* Performs executive and administrative functions of a Civil Defense Corps, and includes public affairs, training and education, and volunteer manpower.

(8) *Supply.* Executes program for procurement, warehousing and release of civil defense supplies, equipment and materials.

(9) *Transportation.* Mobilizes and utilizes transportation resources required for the movement of persons, materials and equipment necessary for civil defense emergency operations.

(10) *Warden.* Directs organized self-protection at the family and neighborhood level, and supports and supplements all other civil defense services.

(11) *Welfare.* Provides emergency feeding, clothing, bedding, shelter and rehabilitation aid; provides for welfare services in evacuation where required.

(12) *Other services.* Such other or supplementary civil defense services as may be authorized by the Civil Defense Director.

(b) *Related service of members.*

(1) *Ground Observer Corps.* Observes, detects and reports enemy aircraft. (Recruiting and administration of the Ground Observer Corps are functions of the Civil Defense Corps. Training and operational control of this service are under the control of the Department of the Air Force.)

(c) Detailed qualifications and duties, not inconsistent with the preceding general functional statements, may be prescribed by the Civil Defense Director for members engaged in the several civil defense services.

§ 1707.5 *Eligibility.* The Civil Defense Director may determine policies and issue regulations regarding eligibility for membership in a Civil Defense Corps: *Provided*, That:

(a) No person shall be considered ineligible for membership by virtue of race, color, creed or national origin.

(b) Membership in any other organization of any character shall not be a requirement of eligibility for membership.

(c) No person shall become a member solely by virtue of membership in any other organization, unless such person's organizational functions include civil defense responsibilities required by State law or requirements thereunder.

(d) No fee of any kind shall be required to be paid as a condition to registration or continued membership.

§ 1707.6 *Registration, training, appointment and status.* (a) Each person desiring membership in a Civil Defense Corps shall so indicate by registering and furnishing such information and data as may be required by the Civil Defense Director except those persons obligated to perform civil defense duties by reason of service or employment pursuant to State law or requirements thereunder.

(b) Each person who shall register for membership in a Civil Defense Corps shall, prior to entering upon duty or into a course of training or instruction, take an oath of the character and in the manner provided for in subsection 403 (b) of the Federal Civil Defense Act of 1950, as amended.

(c) Each person included in the Civil Defense Corps by reason of his service or employment shall take an oath of

the character and in the manner provided for in subsection 403 (b) of the Federal Civil Defense Act of 1950, as amended, unless the Civil Defense Director shall find that an oath of equivalent character has been taken by such person or a combination of an oath plus requirements of State law imposes on such person an obligation equivalent to that imposed by the oath contained in subsection 403 (b) of the Federal Civil Defense Act of 1950, as amended.

(d) Each registrant shall be given such training or instructions as may be prescribed and approved by the Civil Defense Director for the civil defense service for which he is registered, unless he shall have demonstrated his qualifications for such service in accordance with such standards as may be prescribed by the Director.

(e) Any registrant who has completed, in a manner satisfactory to the Civil Defense Director, the prescribed course of training or instruction for the civil defense service for which he is registered, or who has demonstrated to the satisfaction of such Civil Defense Director his qualifications for such service, shall be appointed, or, in the case of persons included in the Corps by virtue of their employment, deemed appointed, to membership in the Civil Defense Corps.

(f) A membership card, in form specified by the Civil Defense Director, may be issued to each member as his official identification. In the event of termination or suspension of membership, the membership card shall be returned to the issuing authority.

(g) Members shall take such additional training and instruction and shall participate in such drills and field training as may be required or authorized by the Civil Defense Director.

(h) No member, solely by reason of such membership, shall be deemed to be an appointee or employee of the United States.

(i) All registrations of persons for membership and all appointments of persons as members shall be made in accordance with these regulations after the date hereof, and all registrations and appointments heretofore made shall be deemed to have been made in accordance with these regulations upon compliance with paragraphs (a) through (e) of this section.

§ 1707.7 *Suspension or termination of membership.* (a) Any member or registrant who fails or refuses to comply with any applicable law, regulation, order or requirement made or issued by his State or local Civil Defense Director, or who fails or refuses faithfully to perform his duties, may have his membership or training status suspended or terminated.

(b) Procedures with respect to suspension or termination shall be in accordance with applicable law or regulations.

§ 1707.8 *Organization and command.* (a) Unless otherwise provided by State law or requirements thereunder, the organization and command of the Civil Defense Corps shall be as follows:

(1) A local Civil Defense Corps shall consist of members engaged in such of the basic civil defense operational services described in § 1707.4 as may be necessary to meet State and local civil defense requirements. It shall be under the authority of the local Civil Defense Director who shall have responsibility and authority for its operation and command.

(2) A State Civil Defense Corps shall include the local Civil Defense Corps of the State. It shall be under the authority of the State Civil Defense Director, who shall supervise and coordinate its activities and who may assume directional or operational control of any local Civil Defense Corps.

(b) The Administrator shall coordinate the civil defense activities of the several departments and agencies of the Federal Government with the activities of the United States Civil Defense Corps; shall assist and coordinate interstate and international civil defense planning and operations consistent with the provisions of compacts and laws relating thereto; and may, at the request of any State, assume operational control over the Civil Defense Corps of such State.

(c) Members of the Ground Observer Corps, which Corps is under the operational control of the Department of the Air Force, shall be exempt from the application of this section.

§ 1707.9 *Supplementary rules, regulations and orders.* Each Civil Defense Director may, consistent with State laws and requirements thereunder, issue such rules, regulations, orders, or requirements not inconsistent with this part, as may be appropriate to effectuate the purposes and provisions of this part.

§ 1707.10 *Certification of qualification.* A State or local civil defense organization shall be deemed to be a Civil Defense Corps and a component of the United States Civil Defense Corps within the meaning of this part upon certification by the State Civil Defense Director to the Administrator that such organization meets the standards prescribed in this part. Such certification shall be made in the manner to be prescribed by the Administrator.

These regulations shall be effective on July 12, 1952.

J. J. WADSWORTH,
Acting Administrator,
Federal Civil Defense Administration.

[F. R. Doc. 52-7646; Filed, July 11, 1952; 8:51 a. m.]

PART 1708—OFFICIAL CIVIL DEFENSE INSIGNE

The following regulations, which consist of Part 1708, Official Civil Defense Insigne, are hereby issued.

Sec.
1708.1 Purpose.
1708.2 Definitions.
1708.3 Prescribed insigne.
1708.4 Official articles.
1708.5 Manufacture, reproduction and display of the prescribed insigne.
1708.6 Issuance, distribution and retail sale of the prescribed insigne.
1708.7 Prohibited use of the prescribed insigne.
1708.8 Violations.

AUTHORITY: §§ 1708.1 to 1708.8 issued under sec. 401, 64 Stat. 1254; 50 U. S. C. App. Sup. 2253. Interpret or apply sec. 204, 64 Stat. 1251; 50 U. S. C. App. Sup. 2284.

§ 1708.1 *Purpose.* The purpose of the regulations in this part is to prescribe the official insigne of the United States Civil Defense Corps and to establish requirements for the reproduction, manufacture, sale, possession, and wearing thereof.

§ 1708.2 *Definitions.* Except as otherwise stated, the following terms shall have the following meanings when used in the regulations in this part:

(a) "Administrator" means the Federal Civil Defense Administrator.

(b) "Civil Defense Corps" means a civil defense organization meeting the standards prescribed in Part 1707 of this chapter, duly established or authorized by a State or any political subdivision thereof.

(c) "Civil Defense Director" means the person or body having authority over a Civil Defense Corps and any duly authorized designee of such person or body. Such term shall refer to a State or local civil defense director, or both, depending upon the applicability of the reference under the State's laws or requirements thereunder.

(d) "Member" means a person who has been duly appointed to membership in a Civil Defense Corps and whose membership has not been suspended or terminated, or a person obligated to perform civil defense duties by reason of service or employment pursuant to State laws or requirements thereunder. A person who is a member of a Civil Defense Corps shall be deemed to be a member of the United States Civil Defense Corps.

(e) "Official articles" means articles designated as such by the Administrator and embodying the prescribed insigne.

(f) "Organizational equipment" means equipment (other than personal equipment) which the Administrator determines is necessary to a civil defense organization for civil defense purposes and which is of such a nature as to require the contribution of Federal funds, but not including items of equipment which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of civil defense plans.

(g) "Registrant" means a person who has registered for membership in a Civil Defense Corps, but who has not qualified and been appointed a member and whose registrant status has not been suspended or terminated.

(h) "State" means any State, Territory, or possession of the United States and the District of Columbia.

(i) "The United States Civil Defense Corps" means the aggregate of the Civil Defense Corps, and includes the individuals who are members of such Civil Defense Corps.

§ 1708.3 *Prescribed insigne.* (a) The prescribed insigne shall be the design covered under Letters Patent A. D. 129797, October 7, 1941, consisting of the "CD" symbol in bright red, centered within a white equilateral triangle superimposed upon a dark blue circle.

(b) The prescribed insigne may be reproduced in the above colors, in black and white, or in the color of the surface upon which reproduced and one other color.

(c) Where appropriate, the name of the particular civil defense service, as designated in § 1707.4 of this chapter (United States Civil Defense Corps Regulations), shall be spelled out in block letters on a horizontal or curved line immediately above the prescribed insigne or across the apex of the triangle within the blue circle. The name of the state or city should appear, either immediately below the insigne or within the blue circle below the triangle. When it is desired to use both the name of the state and the name of the city or other civil defense organizational unit, one should appear immediately below the insigne and the other within the blue circle below the triangle.

(d) The dimensions of the components of the prescribed insigne when the blue circle is 3" in diameter will approximate the following: The triangle will be equilateral 2¼" on a side, each of the letters in the "CD" symbol will be 3/16" in thickness and will occupy a circle 1⅛" in diameter centered in the triangle. Other sizes of the prescribed insigne will be established by diameter of the blue circle only; to the extent that the diameter of the blue circle is greater or less than 3", the dimensions of the other components shall be proportionately increased or decreased.

§ 1708.4 *Official articles.* (a) Official articles shall consist of the following articles embodying the insigne:

(1) Arm bands.
(2) Badges.
(3) Hat bands.
(4) Helmets.
(5) Pennants, placards, plates or stickers for aircraft, vehicles or vessels.
(6) Membership cards.

(b) No person shall possess, display, wear, or use an official article unless he or she is a member of or registrant for membership in a Civil Defense Corps, and no person shall display, wear, or use such an article unless he or she has on his or her person a membership card or other identification evidencing such status: *Provided,* That during a period of emergency operations these prohibitions shall not apply to any person who is performing a civil defense function pursuant to instructions of a Civil Defense Director; *Provided further,* That this prohibition shall not apply to the possession or display of official articles by a manufacturer, wholesaler or retailer in the normal course of business, or to display of pennants, placards, plates or stickers on aircraft, vehicles or vessels designated for operational use by a Civil Defense Director.

§ 1708.5 *Manufacture, reproduction and display of the prescribed insigne.* (a) Any individual, association or business entity may manufacture the prescribed insigne and official articles in compliance with these regulations.

(b) The prescribed insigne may be manufactured, reproduced, and displayed only:

(1) On official articles.
(2) On organizational equipment.
(3) On items of identification issued by the Civil Defense Director to permit necessary movement of persons, vehicles and equipment during a period of emergency operations.
(4) On facilities and equipment designated for emergency operational use by the Civil Defense Director.
(5) On official letterheads, publications, posters, signs, advertisements, lapel pins, pennants, placards, flags and banners, used, issued, or authorized by a Civil Defense Corps or Director.
(6) In connection with articles or advertisements in newspapers, magazines or other publications, or in connection with television or other public information media, provided such use is not intended to discredit the Federal Civil Defense Administration or a Civil Defense Corps, or to mislead, confuse, misrepresent, defraud, or does not erroneously confer the impression of indorsement, approval or relationship to the Federal Civil Defense Administration or a Civil Defense Corps.
(7) On such other items, whether official articles or not, as may be designated or approved by the Administrator in writing.
(8) Without limitation of the foregoing, the reproduction of the prescribed insigne in connection with any publication or article used for political purposes is prohibited.

(c) No alteration or modification of the prescribed insigne may be made except as the Administrator may from time to time authorize.

§ 1708.6 *Distribution, issuance, and retail sale of the prescribed insigne.* No distribution, issuance, or retail sale of the prescribed insigne or official articles shall be made except upon the authorization of the Civil Defense Director.

§ 1708.7 *Prohibited use of the prescribed insigne.* No person shall possess or wear the prescribed insigne or any device in colorable imitation thereof with intent to deceive or mislead, or for the purpose of inducing the false impression that such person is engaged in the performance of an authorized civil defense service or activity.

§ 1708.8 *Violations.* The manufacture, possession, or wearing of the prescribed insigne or any device in colorable imitation thereof otherwise than in accordance with these regulations by any person shall be unlawful and shall subject such person to a fine of not more than $1,000 or imprisonment of not more than one year, or both.

These regulations shall be effective on July 12, 1952.

J. J. WADSWORTH,
Acting Administrator,
Federal Civil Defense Administration.

[F. R. Doc. 52-7647; Filed, July 11, 1952; 8:51 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 14, Amdt. 15]

CPR 14—CEILING PRICES OF CERTAIN FOODS SOLD AT WHOLESALE

DIETETIC FOOD WHOLESALERS, CLARIFICATION OF SERVICE FEE WHOLESALERS, MISCELLANEOUS PROVISIONS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 15 to Ceiling Price Regulation 14 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment exempts "health food wholesalers" and "health food departments" of wholesalers from the provisions of Ceiling Price Regulation 14. As a result, they will now be under the provisions of the General Ceiling Price Regulation. Further this amendment clarifies the definition of service fee wholesalers and changes the method they must use when computing their ceiling prices and when establishing net cost for their retailers. Finally, it corrects certain clerical errors and incorrect classification of commodities within Table A.

Following are the considerations supporting the more important changes made by this amendment.

1. Section 1 of CPR's 15 and 16 exempts "health food retail stores" or "health food departments" of retail stores from coverage by the provisions of these regulations. This was deemed advisable since historically these specialized stores or departments obtained markups substantially higher than those realized in regular grocery operations. This exemption followed the pattern set by the OPA, and OPA experience indicates that such operations were covered satisfactorily by the provisions of the General Maximum Price Regulation.

However, the same treatment was not accorded wholesalers whose business was primarily the sale of "health foods" or wholesalers who operated a separate "health food" department. While OPA was in existence, health foods were either distributed as a side line by regular food wholesalers or were distributed directly by processors to retailers. Further, at that time a large segment of the health food field was largely eliminated as a special line, since a considerable amount of canned fruits and vegetables were packed without sugar due to the sugar shortage. OPS has up to now followed the OPA pattern in regard to health food wholesalers.

It has now been brought to the attention of this Agency that there are a number of health food wholesalers whose entire business is in this specialized field, as well as a number of regular wholesalers who operate separate health food departments. Several of these operators, who represent a large portion of the total business in this field, have submitted financial data and other economic in-

formation which indicate that the margins provided for wholesalers in CPR 14 are far lower than those historically realized by this special group, and that the costs of operation of this group are not comparable to those of regular food wholesalers.

Accordingly, this amendment excludes wholesalers whose business is predominantly the sale of "health foods", and "health food departments" (when operated as separate departments) of regular food wholesalers, from the provisions of CPR 14 and places them under the GCPR.

2. This amendment also clarifies the definition of a service fee wholesaler and changes the method they must use when computing ceiling prices and when estimating new cost for their retailers. Section 26a of CPR 14 defines a service fee wholesaler as one, who among other things, makes a substantial part of his sales in dollar volume by delivery. It has been found that not all service fee wholesalers make delivery, and further, that the delivery term is not necessary to the definition of service fee wholesalers. It has also been found that the present pricing method for service fee wholesalers has raised some questions of interpretation. Therefore, this amendment makes the definition of a service fee wholesaler equally applicable to a wholesaler who does not make deliveries as well as one who does. It further provides a pricing method based on the wholesaler's delivery practice. This amendment also modifies Section 28a to permit wholesalers to take advantage of this change in definition of a service fee wholesaler. Of course, the new method for establishing ceiling prices and for estimating new cost to the retailer is applicable to all service fee wholesalers.

3. When this regulation was issued flour jobbers were exempted except for their sales of flour to retail stores. However, the limitation of the coverage of the regulation to the jobbers' sales of flour to retail stores was inadvertent. This amendment corrects that error and provides that all sales to retailers by flour jobbers of Table A commodities shall be subject to this regulation.

In the judgment of the Director of Price Stabilization, the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950, as amended. In the judgment of the Director of Price Stabilization, they also comply with all the applicable standards of the Defense Production Act of 1950, as amended. In formulating this amendment, the Director has consulted with representatives of industry, including trade association representatives, to the extent practicable, and has given consideration to their recommendations.

AMENDATORY PROVISIONS

Ceiling Price Regulation 14 is amended in the following respects:

1. Section 2, paragraph (a) is amended by changing the last sentence to read as follows:

This regulation does not apply, however, to "health food wholesalers" or "health food departments", "wagon wholesalers", Great Lakes marine suppliers, to sales by "flour jobbers" to commercial, industrial or institutional users, or to sales of "cookies, crackers, toast and crumbs" by "cookie and cracker wholesalers". (See sec. 33, Definitions.)

2. Section 7 is revised by substituting in the first sentence for the words "next cost" the words "net cost".

3. Section 26a is revised to read as follows:

SEC. 26a. *How a Service Fee Wholesaler figures his Ceiling Prices.* (a) You are a service fee wholesaler if, prior to April 5, 1951, and at the present time: (1) services are rendered through outside salesmen or fieldmen; (2) your selling prices to retail stores are figured by the addition to your cost of a stated service fee and charges for additional services rendered; and (3) your sales are made to retail stores only after the retail stores have agreed to become affiliated with your plan.

(b) If you are a service fee wholesaler, you shall figure your ceiling prices in accordance with sections 3 and 4 of this regulation for all items covered by this regulation by adding to your "net cost" as defined in Section 4, the fee and service charges (except optional charges) made by you during the month prior to the effective date of this regulation. These "fee and service charges" shall not include any charges optional to your retail customer, but shall include all stated fees and charges for services rendered which are a compulsory part of your plan of operation. However, during each consecutive four-week period after May 14, 1951, your "net cost" for all items subject to this regulation sold by you to any retail customer, plus the total of the fee and service charges made to that customer, may not exceed what your ceiling prices would have been if you had figured your ceiling prices by using Class 2 (cash-and-carry) markups where your delivery charge is optional or where you make no deliveries or by using Class 3 (service) markups where you have a compulsory charge for deliveries or where you make free delivery or if you are a Class 1 wholesaler (retailer-owned cooperative) by using Class 1 markups for all sales to members of your cooperative organization, provided that you must reduce to 1.10 all categories of commodities that have a markup above 1.10, except category 10 which shall be reduced to a markup of 1.19.

(c) On all sales made by you as a service fee wholesaler of items covered by this regulation you must furnish the retailer an estimated ceiling price for each item. This estimated ceiling price shall be what your ceiling price would have been if you had figured your ceiling price by adding to your "net cost", as defined in section 4 of this regulation, the markup provided for Class 2 wholesalers where your delivery charge is optional or where you make no delivery or the markup provided for Class 3 wholesalers where you have a compulsory charge for delivery or where you make free delivery or the markup provided for Class 1 wholesalers for sales to members of your cooperative organization, but reducing to 1.10 all categories of commodities that have a markup above 1.10 except category 10 which shall be reduced to a markup of 1.19. This information must be furnished to the retailer on the invoice or order form, or other written document furnished at or before the time of delivery of the items.

(d) You must notify the OPS district office for your area not later than May 31, 1951, of all fee and service charges used by you during the month prior to the effective date of this regulation which are a compulsory part of your plan of operation, and of all charges which are optional to the retailer, together with all information necessary to obtain a complete description of your type of operation. You may begin using the provisions of this section as soon as you have furnished your OPS district office for your area the information required by this section. This authority may be withdrawn if it is determined that you do not qualify for adjustment under this section.

(e) If you figure your ceiling prices for any items under this section, you must figure your ceiling prices for all sales of items covered by this regulation to retail stores affiliated with your plan in accordance with this section.

4. Section 28a is revised to read as follows:

SEC. 28a. *How certain wholesalers may apply for permission to operate as service fee wholesalers.* If you were not operating as a service fee wholesaler prior to April 5, 1951, or if you were so operating but were unable to qualify under section 26a prior to May 31, 1951, because you could not meet the delivery requirement of the former paragraph (a) (1) of section 26a, you may file an application for permission to operate as a service fee wholesaler. Your application must contain the following information:

(1) The names and addresses of the retailers who agree to become affiliated with your plan.

(2) A description of the services covered by your proposed fees and charges which you will offer to your retailers.

(3) A statement of your proposed fees and charges for the services which you will offer to your retailers.

(4) The number of salesmen or fieldmen that you plan to use.

(5) A complete description of your proposed type of operation, including your method of invoicing.

Your application must be filed in duplicate with the OPS district office for your area. You may not operate as a service fee wholesaler until you have received specific authorization from that OPS office. Applications for adjustments are governed by Price Procedural Regulation 1, Revised.

5. Section 33, paragraph (g), is revised by deleting from the second sentence the words "for flour".

6. Section 33, "Definitions", is further revised by adding a new paragraph (j) to read as follows:

(j) *Health food wholesalers.* A "health food wholesaler" or "health food department" is one whose sales to

retailers consist principally of specially prepared dietetic foods. For the purpose of this regulation, a "health food department" is a separate and distinct department operated as a special unit for which separate records and accounts are maintained. "Specially prepared dietetic foods" are foods manufactured and sold for restricted diets and for dietetic purposes including, but not limited to, specially prepared foods for diabetic or arthritic conditions, or high blood pressure, specially prepared weight building, reducing and tonic foods, and vitamin or mineral supplements.

7. Section 33, "Definitions", is further revised by adding a new paragraph (k) to read as follows:

(k) *Canned.* "Canned" means processed and packaged in any container, whether or not hermetically sealed.

8. Section 35, paragraph (d) (4) is revised to read as follows:

(4) "Coffee". Excluded are: Imported coffee if imported in consumer size containers (2 lbs. or less) and coffee packed in bags, each containing only the amount necessary to make one ordinary cup of coffee.

9. Section 35, paragraph (b) (8) is amended by deleting the word "clams".

10. Section 35, paragraph (c) (8) is amended to read as follows:

(8) "Fish, processed". Excluded are Canned clams (except canned Maine whole soft shell clams); and kippered, marinated, dried or smoked fish and seafood (except sardines).

11. Section 35, paragraph (d) (8) is amended to read as follows:

(8) Excluded are: Canned Maine whole soft shell clams, frozen fish and seafood, fresh fish and seafood, canned clam juice, fish and seafood pates, pastes and purées, sauce containing fish and seafood, fish roe, caviar, fish and seafood hors d'oeuvres, and imported "fish, processed" if imported in consumer size containers, except tuna, crabmeat and salmon.

12. Section 35, paragraph (c) (10) is amended by deleting the words "frozen fish and seafood".

13. Section 35, paragraph (d) (10) is amended to read as follows:

(10) "Frozen foods". Excluded are: Frozen hollandaise sauce and frozen fish and seafood.

14. Section 35, paragraph (b) (12) is amended by deleting the words "'Canned' means processed and packaged in any container whether or not hermetically sealed".

15. Section 35, paragraph (b) (19) is amended by adding after the word "tamales" the word "enchiladas".

16. Section 35, paragraph (b) (32) is amended by deleting the words "'Canned' means processed and packaged in any container whether or not hermetically sealed".

17. Section 35, paragraph (d) (32) is amended by adding after the words "consumer size containers" the words "and canned artichoke products".

18. Section 35, paragraph (b) (33) is amended by deleting the words "'Canned' means processed and packaged in any container whether or not hermetically sealed".

19. Section 35, paragraph (b) (36) is amended by deleting the words "Tom and Jerry batter (bottled)" and the words "popcorn, not popped", and by adding after the words "date products" the words "Enchiladas (tins, jars, paper or corn wrapped)".

20. Section 35, paragraph (c) (36) is amended by deleting the words "Frozen fish and seafood".

21. Section 35, paragraph (c) (36) is amended by adding after the word "Eggs" the words "Egg-nog (non-alcoholic) bottled", by adding after the words "Tamales, bulk" the words "Tom and Jerry batter (bottled)", by deleting the words "Popcorn, popped", and changing the words "Fruit cake" to read "Fruit cake, except holiday fruit cake".

22. Section 35, paragraph (c) (36) is amended by deleting the words "Fresh fruits and vegetables" and inserting after the words "Potato chips" the words "Potatoes, white flesh".

23. Section 35, paragraph (c) (36) is amended by adding after the word "Wine" the word "Yogurt".

24. Section 35, paragraph (d) (36) is amended to read as follows:

(36) "Miscellaneous foods". Excluded are: Truffles, capers, canned snails, cane or beet sugar, rattlesnake meat, easter egg dye, olive oil, popcorn (popped or not), holiday fruit cake and fresh fruits and vegetables except white potatoes.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective July 16, 1952.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7776; Filed, July 11, 1952; 10:42 a. m.]

[Ceiling Price Regulation 34, Supplementary Regulation 22]

CPR 34—SERVICES

SR 22—SERVICE CHARGES FOR BANKS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation 22 to Ceiling Price Regulation 34 is hereby issued.

STATEMENT OF CONSIDERATIONS

This Supplementary Regulation 22 to Ceiling Price Regulation 34, as amended, adapts ceiling price regulation of bank service charges more nearly to the operations of the banking industry.

Generally, this regulation covers two classes of situations. First, it provides, to the extent consistent with fair treatment of small as well as large depositors, flexibility for changes in certain service charges within individual banks so long as the total revenue to the bank from service charges remains approximately the same as it was during the most recent fiscal year. More specifically, this regulation contains a provision for simplifying the method of determining earnings credit on depositors' checking accounts. It also permits a realignment of service charges and at the same time assures that the services which were available during the base period will remain available to all classes of depositors. Also included in this part of the regulation is a provision which will permit nonpar banks with an exchange charge system to change to par banks with a schedule of service charges in lieu of the exchange charges.

Secondly, this regulation provides a means for realigning service charges where such a realignment is necessary to permit the customary uniformity of ceiling prices and sound banking operation in certain cases where a bank has branch offices.

A provision is included in this part of the regulation to permit those banks which had a trial service charge in effect during the base period to price uniformly at all of their branch offices if those banks customarily had a substantially uniform system of pricing at all of their branch offices. Consideration has also been given to the special pricing problems of merging and consolidating banks and to new branch offices of old banks. With respect to the merger or consolidation situation, this supplementary regulation authorizes the smaller merging bank to adopt entirely, but not in part, the schedule of service charges of the larger merging bank where the larger bank is accountable for 66⅔ percent or more of their aggregate total time and demand deposits. If the necessary two-thirds ratio is not present, the merging or consolidating banks either may continue their individual lawful ceiling prices for service charges in effect at the time of the merger or may apply under section 4 of this supplementary regulation for an appropriate changed schedule of service charges. The provision for branch offices permits new bank branches to adopt the schedule of service ceiling charges in effect at the principal bank if the principal bank had a substantially uniform system of service charges during the base period or did not, prior to the base period, have any branch offices.

This supplementary regulation also states additional requirements and special factors to be taken into account in respect to banks which seek to qualify for and obtain a ceiling price adjustment under section 20 (a) of Ceiling Price Regulation 34, as amended.

There is nothing in this supplementary regulation which would prohibit any bank from determining its schedule of service charge ceilings pursuant to any of the provisions of Ceiling Price Regu-

lation 34, as amended. The provisions of this supplementary regulation are alternatives which a bank may utilize, if it wishes, in lieu of the otherwise applicable provisions of Ceiling Price Regulation 34.

In the formulation of this supplementary regulation there was consultation with representatives of the banking industry as well as members of bankers' trade associations and consideration was given to their recommendations. In the judgment of the Director of Price Stabilization the provisions of this regulation are generally fair and equitable and are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

Sec.

AUTHORITY: Sections 1 to 10 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Supp. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Supp. 2101-2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR 1950 Supp.

SECTION 1. *What this regulation does.* This supplementary regulation to Ceiling Price Regulation 34 authorizes banks to institute a new method or to change their present method of computing depositors' earnings credits in connection with service charge ceilings on depositors' checking accounts. It permits banks to change their schedule of service charge ceilings if certain requirements are met. It also authorizes banks desiring to change from a nonpar check clearance system to a par check clearance system to institute service charges in lieu of exchange charges. It further provides a method by which banks may establish uniform service charge ceilings where two or more banks merge or consolidate and in certain other instances where banks operate branch offices.

This supplementary regulation also states additional requirements and special factors to be taken into account in respect to banks which seek to qualify for and obtain a ceiling price adjustment under section 20 (a) of Ceiling Price Regulation 34, as amended.

SEC. 2. *Relationship to Ceiling Price Regulation 34.* The provisions of this supplementary regulation give banks the option to determine certain ceiling prices for service charges differently than permitted by the provisions of Ceiling Price Regulation 34, as amended. Except for such option, all provisions of Ceiling Price Regulation 34 remain in effect for service suppliers affected by this regulation.

SEC. 3. *Alternative methods of computing earnings credit on depositors' checking accounts.* This section applies to you if you are a bank and wish to modify your service charge ceilings by changing your present method of computing earnings credit on depositors' checking accounts. In this event you may apply to the Director of Price Stabilization, Attention: Chief, Service Trades Branch, Washington 25, D. C., for permission to change your method of computing the earnings credit on depositors' checking accounts from one of the following methods to another of the following methods: (a) An average daily balance for the month, with customary deductions for float and reserve; or (b) the depositors' minimum balance for the month, without deduction for float and reserve; or (c) by adding the highest balance appearing during a month and the lowest balance appearing during the same month, dividing the total by two, and making customary deductions for float and reserve. Your application under this section must contain an explanation of your present method (included in the foregoing list of alternatives) of computing earnings credit on depositors' checking accounts and a statement of which of the alternative methods provided for herein you propose to use in lieu of your present method. You may not change your method of computing your earnings credit on depositors' checking accounts under this section until you are advised in writing of OPS approval. Nothing in this section shall be construed to authorize any bank to lower the rate it allows to its depositors with respect to credit on depositors' checking accounts.

SEC. 4. *Changing schedule of service charges on depositors' checking accounts.* (a) Banks which now have a schedule of service charges on depositors' checking accounts may apply to the Director of Price Stabilization, Attention: Chief, Service Trades Branch, Washington 25, D. C., for permission to substitute another schedule therefor, provided:

(1) The aggregate proceeds that would have been received from the proposed schedule of service charges on depositors' checking accounts had that schedule been in effect during the last preceding fiscal year do not exceed the aggregate proceeds actually received from the service charges on depositors' checking accounts in effect during that period;

(2) The proposed schedule of service charges on depositors' checking accounts will not result in the discontinuance of any service rendered during the base period to any class of depositor; and

(3) The requested plan is fair and equitable to all classes of depositors and particularly that smaller depositors will not be subjected to an unreasonable increase in charges under the requested plan.

(b) If you are a bank applying for permission to change your schedule of service charges on depositors' checking accounts under this section, your application must contain the following information:

(1) An explanation of your present service charge plan, including rates on depositors' checking accounts of various categories.

(2) An explanation of the requested plan and rates of service charges on your depositors' checking accounts of various categories.

(3) A statement of (i) the total income actually received from the service charges on your depositors' checking accounts during the last preceding fiscal year, (ii) the total income actually received from service charges on your depositors' checking accounts in each of every third month of the last preceding fiscal year and (iii) the total income that you would have received from service charges on your depositors' checking accounts in each of the same months as in subdivision (ii) if the requested schedule of service charges described in paragraph (b) (2) of this section had been in effect. The statement of income required by this subparagraph must include an analysis of all established categories of depositors' checking accounts that would have been affected under the proposed schedule but must exclude income received from other service charges not included in the present or proposed service charge schedule.

(4) If you have ever been authorized to adjust your service charges by the Office of Price Stabilization, you must adequately identify the order in which you were authorized to make such adjustment.

(5) If you have changed from a nonpar bank to a par bank under section 5 of this regulation, you must adequately identify your application therefor, and any order issued with respect thereto.

You may not change the schedule of service charges on depositors' checking accounts under this section until you are advised in writing of OPS approval, which will be given only where granting such approval is consistent with the purposes of the Defense Production Act of 1950, as amended.

SEC. 5. *Nonpar banks changing to par banks.* (Substitution of a check clearance service charge to the maker in place of an exchange charge to the payee or endorser).

(a) If you are a bank which now imposes an exchange charge for check clearance on the payee or endorser of a check (nonpar system) and you now wish to impose a service charge on the maker of the check (par system), you may, under this section, apply to OPS for permission to change from the nonpar system to a system of service charges applicable to depositors' checking accounts. However, you must make a showing that the total calculated income from the application of proposed service charges to depositors' checking account, had they been in effect during the last preceding fiscal year, would not have exceeded the total income actually received from the service charges on depositors' checking accounts and exchange charges in effect during that fiscal year.

(b) Your application under this section must be submitted to the Director of Price Stabilization, Attention: Chief, Service Trades Branch, Washington 25.

D. C., and must contain the following information:

(1) An explanation of your present schedule of exchange charges and service charges on depositors' checking accounts, if any.

(2) An explanation of the service charge plan and schedules applicable to depositors' checking accounts which you propose to institute in lieu of the exchange charges.

(3) A statement of (i) the total income actually received from exchange charges and service charges on depositors' checking accounts, if any, during the last preceding fiscal year, (ii) the total income actually received from exchange charges and service charges on depositors' checking accounts, if any, in each of every third month of the last preceding fiscal year, and (iii) the total income that you would have received from service charges applicable to depositors' checking accounts in each of the same months as in subdivision (ii) if the requested plan described in subparagraph (2) of this section had been in effect, with an explanation, including wherever feasible, item counts of how you arrived at such totals.

(4) If you have ever been authorized to change your schedule of service charges on depositors' checking accounts under any section of Ceiling Price Regulation 34, as amended, or this supplementary regulation, you must adequately identify your application and any order issued with respect thereto.

If your application, under this section is approved by OPS as hereinafter provided you must discontinue your exchange charges before instituting your approved schedule of service charges. You may not change from a nonpar system to a system of service charges applicable to depositors' checking accounts under this section however, until you are advised in writing of OPS approval, which will be given only where granting such approval is consistent with the purposes of the Defense Production Act of 1950, as amended.

SEC. 6. *Base period trial service charges.* (a) If you have one or more branch offices and during the base period the prices for your service charges were centrally determined and had substantially uniform application in your principal bank and your branch offices, but during the base period you were supplying a service at a new charge (trial service charge) at your principal office or at a branch office to determine the feasibility of installing that charge in your other offices, you may apply to the Director of Price Stabilization, Attention: Chief, Service Trades Branch, Washington 25, D. C., for permission to supply such service at the trial service charge price established for its supply in all of your offices, provided you submit a statement indicating (1) that you price centrally out of your principal office, (2) during the base period the ceiling prices or pricing methods for all of your services were substantially uniform in all of your offices, (3) that the service was being supplied at the trial service charge price during the base period at an office which you shall identify by name and address, (4) a description of the service for which you are requesting permission to change your ceiling price and a statement of the present ceiling price and the base period trial charge therefor, and (5) that you desire to apply this trial service charge in all of your offices.

You may not institute the charge under this section until you are advised in writing of OPS approval, which will be given only where granting such approval is consistent with the purposes of the Defense Production Act of 1950, as amended.

SEC. 7. *Mergers and consolidations.* (a) Two or more banks which have merged or consolidated since January 25, 1951, may determine the ceiling prices for their services pursuant to this section if, during the base period, one of the banks involved in the merger or consolidation had a uniform schedule of service charges in all of its offices and on the next preceding June 30 or December 31, whichever date is closer to the date of the merger or consolidation, was alone or with its branches, as the case may be accountable for 66⅔ percent or more of the total time and demand deposits of the merging or consolidating banks. In such event, the bank resulting from the merger or consolidation may apply to the Director of Price Stabilization, Attention: Chief, Service Trades Branch, Washington 25, D. C., for permission to establish as the ceiling prices for its services, the ceiling prices which the bank accountable for 66⅔ percent or more of the total time and demand deposits had in effect on the date of the merger or consolidation.

(b) If you are a bank applying for permission to establish the ceiling prices for your services provided for in paragraph (a) of this section, your application must contain a statement showing how you are eligible to establish your ceiling prices as provided therein together with schedules of the service charges in effect at each of the merged or consolidated banks on the date of your application. You may not establish your ceiling prices under this section until you are advised in writing of OPS approval, which will be given only where granting such approval is consistent with the purposes of the Defense Production Act of 1950, as amended.

SEC. 8. *New branch offices.* (a) If during the base period, December 19, 1950 to January 25, 1951, inclusive, you had a branch office or offices with a substantially uniform schedule of service charges and subsequent to January 25, 1951, you open or plan to open a new branch office, you may apply to the Director of Price Stabilization, Attention: Chief, Service Trades Branch, Washington 25, D. C., for permission to establish at the new branch office the uniform schedule of service charges in effect at your other branch office or offices during the base period.

(b) Banks without branch offices during the base period: If you are a bank which did not have any branch offices during the base period, December 19, 1950 to January 25, 1951, inclusive, and subsequent thereto you open or plan to open a new branch office, you may apply to the Director of Price Stabilization, Attention: Chief, Service Trades Branch Washington 25, D. C., for permission to charge in the new branch office the ceiling prices for services which the principal office charges for the same services supplied therein.

(c) If you are applying for permission to establish ceiling prices for your services under paragraph (a) or (b) of this section your application must contain a list of the addresses of the principal bank and all branch offices together with a schedule of the ceiling prices for services in effect at the principal office on the date of your application and if you have ever been authorized to adjust your service charges by the Office of Price Stabilization, you must adequately identify the order under which you were authorized to make such adjustment. You may not supply the services for which you are requesting a ceiling price under this section until you are advised in writing of OPS approval, which will be given only where granting such approval is consistent with the purpose of the Defense Production Act of 1950, as amended.

SEC. 9. *Application for adjustment under section 20 (a) of Ceiling Price Regulation 34.* If you are eligible for an adjustment under section 20 (a) of Ceiling Price Regulation 34, as amended, your application must contain in addition to the information required by OPS Public Form 43, Revised, a statement of the total demand and time deposits of the bank on the next preceding June 30 or December 31, whichever is closer to the date of application. OPS in granting relief under section 20 (a) will take into account in addition to the matters referred to in that adjustment provision: (1) The United States ratio of average percentage of service charge revenue to total income for banks of various sizes as measured by demand and time deposits; (2) whether your ratio of average percentage of service charge revenue to total income is more or less than the United States ratio on insured banks, as computed on the basis of the 1949 report of the Federal Deposit Insurance Corporation; and (3) the reasonable dollar amount of allowable increased revenue from service charges to offset, in whole or in part, impairment of your normal pre-Korean earnings to meet the needs of smaller banks and to cover costs of installing or modifying your service charge schedule.

SEC. 10. *Definitions.* (a) As used in this supplementary regulation: The term "bank" shall include any person, firm or corporation engaged in the business of receiving and paying deposits of money or its equivalent, and which is authorized or permitted to engage in such business by the laws of the United States or any State, Territory or District.

(b) The term "service charges" means those charges made by the banks for services which are subject to price regulation, including, but not limited to, service charges on depositors' checking accounts, safety deposit box rentals, bank money orders, cashiers' checks, and other miscellaneous services.

(c) The term "service charges on depositors' checking accounts" means only those charges which the bank imposes against its depositors for the services it renders the depositors in connection with the depositors' checking accounts.

(d) The term "uniform schedule of service charges" means that the same ceiling price is charged for the same services at all offices of a bank.

(e) The term "exchange" means the charge that nonpar banks deduct for paying checks drawn upon themselves when they are presented through the mails from out-of-town points for the service of remitting the proceeds of the checks to distant points.

(f) The term "par bank" refers to those banks which will remit in full items payable by them.

(g) The terms "merger and consolidation" refers to the combining of two or more banks under the charter of one of such banks or under a new charter with or without the dissolution of any such banks.

(h) The term "earnings credit" is the allowance to checking account depositors as a partial or full offset against certain service charges.

(i) The term "float" means items in transit which are in the process of collection but not actually collected.

(j) The term "reserve" means funds set aside by the bank as required by law and as deemed necessary by the bank to enable it to meet its depositors' demands.

(k) The term "new branch" means a bank which is established in a separate location from that of the principal office and any previously established branch office or offices. It does not include the previously established branch of a bank which has moved to a new location.

(l) The term "average daily balance" means the average amount of money that customer keeps on deposit, determined by adding the daily balances of his account for any given period and dividing the total by the number of days in such period.

Effective date. This Supplementary Regulation 22 to Ceiling Price Regulation 34 shall become effective July 11, 1952.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7778; Filed, July 11, 1952; 10:43 a. m.]

[Ceiling Price Regulation 93, Interpretation 23]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 23—CHANGE FROM TIME AND MATERIALS TO LUMP-SUM BASIS (SECTION 37)

Some contractors who, during the base period, set prices for their services on a time and materials basis have indicated a desire to discontinue this method of pricing and begin pricing on a lump-sum basis, thereby eliminating the necessity for reporting on OPS Form 101 under section 32. They have inquired whether this change is permissible in view of section 37.

A contractor may change to the lump-sum method of pricing if he makes application, as provided by section 16 for sellers without base period experience. However, if, by reason of the change from a time and materials to a lump-sum pricing basis, a service having the same general purpose which formerly was offered at a lower price would not now be available except at a higher price, the contractor may not thereafter refuse to sell on his former time and materials basis except under the circumstances permitted by section 37.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7700; Filed, July 11, 1952; 4:01 p. m.]

[Ceiling Price Regulation 24, Amdt. 15]

CPR 24—CEILING PRICES OF BEEF SOLD AT WHOLESALE

MISCELLANEOUS AMENDMENTS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, Economic Stabilization Agency General Order 2, Delegation of Authority by the Secretary of Agriculture to the Economic Stabilization Agency with respect to meat, as amended, and Economic Stabilization Agency General Order 5, Revision, this Amendment 15 to Ceiling Price Regulation 24 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment makes the following changes in CPR 24:

1. The requirements which have to be met in order to qualify for sales of prefabricated retail cuts have been somewhat liberalized in order to aid small independent stores, which do not have meat cutting facilities, in obtaining beef. This modification makes it possible for such a retailer to obtain a new source of supply where his customary source is no longer available or to obtain such prefabricated cuts for the first time if he has not done so before. At the same time sufficient safeguards are still provided to prevent the abuses which the original restrictions were designed to prevent.

Moreover, in order to enable the Office of Price Stabilization to deal equitably with exceptional situations, an adjustment provision has been added which sets forth a method whereby individual authorizations to buy and sell prefabricated retail cuts may be approved at the local level, subject to certain generally applicable standards and limitations, designed to keep under control the economic consequences of this relaxation of the restrictions on this type of sales.

2. Ceiling prices are established for sales of ungraded or improperly graded beef, and for unauthorized sales of any beef product, either by an unauthorized seller or to an unauthorized buyer. A new section is added, containing these ceiling prices as well as the provisions for ceiling prices for miscuts, which have been expanded so as to apply to all schedules. The purpose of all of these provisions is not, of course, to sanction any of these illegal sales, but merely to provide a yardstick for the measuring of damages under the provisions of the Defense Production Act of 1950, as amended.

3. The schedules for fabricated cuts have been amended so as to add two new items, namely, strip steaks (bone-in) and boneless strip loins or boneless strip steaks. New definitions have been added for these items which will permit considerably closer trim than was heretofore required. Concurrently, "club steak" has been redefined so as to permit this item to be made from an untrimmed portion of the short loin. These changes are made in response to request from the trade for authorization of a better quality steak than heretofore defined in this regulation. The Office of Price Stabilization has been advised by the industry that some sellers have historically sold steaks trimmed more finely than was previously required under the cutting standards incorporated in CPR 24. In order to accommodate these sellers who cater primarily to the banquet trade, the aforementioned changes have been made, which should have no effect on the prices of staple beef items bought by the average consumer. If there is any indication of an undue diversion of beef into these luxury items, the Office of Price Stabilization will reconsider this action.

4. Section 22, Schedule III, Boneless beef cuts, has been revised so as to permit sales of boneless cuts derived from the better grades of beef. This was done in response to a recommendation of the Industry Advisory Committee, in order to permit sellers in certain areas, particularly New England, to return to their historical practice of selling boneless beef cuts made from the top grades of beef. An exception has been made in the case of certain boneless beef cuts which are used predominantly by processors and which are customarily derived from the lower grades of beef. There are no counterparts of these cuts at the retail level. Moreover, in the case of those boneless items which, as a rule, do not bear the grademark and the value of which does not necessarily depend upon the grade of the carcass from which it was derived, such as flank steaks or skirt steaks, the same ceiling prices have been provided across the board for all grades.

An additional item has been added to Schedule III, namely, "peeled tenderloin". This was done in response to a request from the trade to permit sellers to supply, in the customary manner, certain segments of the restaurant trade which specialize in filets mignon or tenderloin steaks. This will permit these sellers to trim off all fat, sinew, and connective tissue, so as to allow the restaurants to utilize all the meat for steaks

without a large additional amount of trimmings which can only be used for hamburger—for which these restaurants have only a limited outlet. A definition for "peeled tenderloin" has been added which provides that only the larger tenderloins may be used in their preparation. This meets the customary specifications of the major users of this product. In response to a recommendation by the Industry Advisory Committee, separate ceiling prices for tenderloins based on a weight breakdown have been established in the revised Schedule III. Also, in connection with special addition (3) to Schedule III, a revised definition of the term "independent frozen food distributor" has been added.

5. The title of Section 28 has been corrected to read *Specialty products, prefabricated, quick frozen, and packaged.* This conforms the title of this section with the terminology used in Appendix 8 (f), which contains the definitions for the items covered by section 28. It also conforms this title with the corresponding form used in CPR 25 and serves to avoid any unintentional confusion between the items listed in section 28 of this regulation and "specialty beef products" or "specialty steak products" as defined in section 50 (aa). While some of the items covered by section 28 may also comply with the requisites of section 50 (aa), others, like, e. g. ground beef patties, clearly do not. Accordingly, to avoid misunderstandings, a separate and distinct generic term "specialty products, prefabricated, quick frozen, and packaged" is used to distinguish the items covered by section 28 from any other product covered by this regulation.

Moreover, a new item, "flake steak", has been added to the schedule of prefabricated, quick frozen, and packaged specialty products. This adds to the products for which dollars-and-cents ceiling prices were heretofore established, a new and important item which constitutes a considerable portion of the total volume of sales of such products. A definition for this product is also added to Appendix 8.

6. A new modified definition has been provided for "oven-prepared rib", in response to requests by the trade, in order to provide for a more readily saleable product. In addition, minor clerical and language changes have been made in the course of the revision of various sections. These latter changes will have no effect on the substantive provisions of this regulation.

In the judgment of the Director of Price Stabilization, the ceiling prices established by this regulation are generally fair and equitable, are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended, and comply with all the applicable standards of that act, and are necessary and appropriate to promote the national defense.

In formulating this amendment, the Director of Price Stabilization has consulted so far as practicable with industry representatives, including trade association representatives, and has given full consideration to their recommendations. In his judgment the provisions of this regulation are generally fair and equitable, are necessary to effectuate the purposes of Title I and IV of the Defense Production Act of 1950, as amended, are necessary and appropriate to promote the National Defense, and comply with all the applicable standards of the act.

All standards prescribed in this amendment were, prior to the issuance of Ceiling Price Regulation 24, in general use in the meat industry. Such standards as are prescribed are indispensable to price control of beef, since no practicable alternative to such standardization exists for securing effective price control of this commodity. It is not believed that this amendment will cause any substantial changes in business practices; however, to the extent that such changes may be compelled, they are necessary to prevent circumvention or evasion of Ceiling Price Regulation 24, as amended.

AMENDATORY PROVISIONS

Ceiling Price Regulation 24 is amended in the following respects:

1. Section 11 (b) (1) is amended to read as follows:

(b) *Selling other than defined cuts.* (1) Regardless of any contract, agreement or other obligation, except for beef products, the ceiling prices of which are controlled by sections 3 (g), 3 (h), and 4 of this regulation, you shall not buy or receive in the regular course of trade or business and you shall not sell or deliver any beef product or any part or portion thereof unless such beef product is listed in Appendices 2 through 8, inclusive. Moreover, you shall not sell any prefabricated retail cut to a retail selling establishment unless (i) you have customarily sold prefabricated retail cuts to this establishment, or (ii) some other seller at wholesale has customarily sold prefabricated retail cuts to this establishment, or (iii) such selling establishment is a store which does not have adequate facilities for the preparation of retail cuts. Regardless of the foregoing, you shall not sell any prefabricated retail cut to a retail selling establishment unless in addition to qualifying under (i), (ii), or (iii) above, the retailer requests you in writing to sell him prefabricated retail cuts.

2. Section 11 (b) is amended by redesignating section 11 (b) (2) as section 11 (b) (3), and by adding the following new section 11 (b) (2):

(2) If you desire to sell prefabricated retail cuts as set forth in section 11 (b) (1) but you fail to meet one or more of the required qualifications, you may apply for special authorization, by writing to the appropriate District Office of Price Stabilization for the District in which your principal place of business is located, setting forth the following information: (i) the reasons why you desire to sell prefabricated retail cuts; (ii) the name and address of the retailer to whom you desire to sell; (iii) a statement, supported by such figures of proposed volume of sales, selling prices, and costs, as you may be able to supply, that the authorization requested will not cause an undue diversion of available meat supplies, and will not increase the overall cost of meat to this retailer; and (iv) a signed statement from this retailer that he joins in your application for such special authorization and that if the application is granted, he will not, as a result, apply thereafter to the Office of Price Stabilization for an increase in his ceiling prices.

The District Director of Price Stabilization may thereafter issue an order, authorizing you to sell prefabricated cuts to the designated retailer, subject to any appropriate conditions and limitations, provided the District Director finds that such authorization (i) will not cause an undue diversion of available meat supplies into prefabricated retail cuts; (ii) will not increase the overall cost of meat to such retailer or to ultimate consumers; and (ii) will not otherwise have any inflationary effect or produce economic results inconsistent with the provisions and purposes of this regulation. The District Director may, at any time thereafter, modify, suspend, or revoke such order, if he finds that any material information contained in the application was incorrect, or that the economic consequences of the authorization, upon actual operation, appear to be inflationary or otherwise inconsistent with the provisions or purposes of this regulation.

3. Section 11 (b) is further amended by adding the following new Section 11 (b) (4):

(4) This regulation establishes ceiling prices for unauthorized sales of these or other items either by unauthorized sellers or to unauthorized buyers. The purpose of the provision establishing such ceiling prices is not to sanction such unauthorized sale or to excuse the violation of this section 11, but simply to establish ceiling prices for the purpose of measuring damages under the provisions of the Defense Production Act of 1950, as amended. Such unauthorized sales violate this section 11 (b), and such unauthorized sales at prices higher than those prescribed by this regulation for corresponding authorized sales also violate section 11 (a).

4. Section 11 is amended by adding a new section 11 (f) to read as follows:

(f) *Selling ungraded (or improperly graded beef.* (1) Regardless of any contract, agreement, or other obligation, you shall not buy or receive in the regular course of trade or business and you shall not sell or deliver any beef which does not clearly bear a correct grade mark, as required by Distribution Regulation 2, as amended.

(2) This regulation establishes ceiling prices for beef which does not clearly bear a correct grade mark, as required by Distribution Regulation 2, as amended. The purpose of the provision establishing ceiling prices for ungraded (or improperly graded) beef is not to sanction the sale of such ungraded (or improperly graded) beef or to excuse the violation of this section 11 (f) or of Distribution Regulation 2, but simply to establish ceiling prices for the purpose of measuring damages under the provisions

of the Defense Production Act of 1950, as amended.

The sale of ungraded (or improperly graded) beef violates this section 11 (f), and the sale of ungraded (or improperly graded) beef at prices higher than those prescribed by this regulation also violates section 11 (a).

5. Section 20, Schedule I is amended by deleting special adjustments (1) and (2), and by re-numbering special adjustments (3), (4), (5), and (6) as special adjustments (1), (2), (3) and (4), respectively. See section 29 for ceiling prices for miscuts and ungraded (or improperly graded) beef.

6. Section 21 is amended by deleting item 10—Strip loin (boneless) and item 30—Boneless strip steak and the prices for these items in Schedules II (a), II (b), II (c), and II (d), and substituting the following:

[Ceiling prices by grade, per hundredweight]

	Prime	Choice	Good	Commercial	Utility
Schedule II (a)					
10. Strip steaks (bone-in)	$233.00	$199.50	$166.00	$122.20	$120.90
30. Boneless strip loin or boneless strip steak	290.80	249.10	207.10	152.40	150.70
Schedule II (b)					
10. Strip steaks (bone-in)	226.50	194.00	161.30	118.80	117.40
30. Boneless strip loin or boneless strip steak	282.80	242.10	201.30	148.10	146.40
Schedule II (c)					
10. Strip steaks (bone-in)	220.10	188.50	156.70	115.20	113.80
30. Boneless strip loin or boneless strip steak	274.70	235.20	195.50	143.60	141.90
Schedule II (d)					
10. Strip steaks (bone-in)	210.80	181.00	150.40	110.50	109.20
30. Boneless strip loin or boneless strip steak	263.10	225.80	187.60	137.80	136.10

7. Section 22 is amended to read as follows:

SEC. 22. *Schedule III—Boneless beef cuts.* The ceiling prices for the boneless beef cuts listed in columns (7) and (8) apply to both bull meat and other beef. The prices listed in columns (3), (4), (5), and (6) do not apply to bull meat.

[All prices are on a dollars per hundredweight basis. The price for any fraction of a hundredweight shall be reduced proportionately. You may not add the additions set forth in sections 40, 43, 44, 47, and 48]

No.	Boneless cuts	Ceiling prices by grades						Zone differential allowance
		Prime	Choice	Good	Commercial	Utility	Cutter and canner	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Insides and knuckles	$84.00	$84.00	$84.00	$76.00	$74.00	$65.00	The zone differential for sales of boneless beef cuts listed in this sec. 22, shall be 1.4 times the zone differential listed in appendix 11 for the particular grade of beef sold. The zone differential shall be rounded to the nearest 10 cents per hundredweight.
2	Clods	77.50	77.50	77.50	72.00	72.00	63.00	
3	Strips	------	------	------	72.00	72.00	63.00	
4	Sirloin butts	88.00	82.00	76.00	71.00	70.00	63.00	
5	Regular rolls	------	------	------	100.00	100.00	76.00	
6	Tenderloin: [1]							
	a. Regular—Under 3 pounds	------	------	------	100.00	100.00	75.00	
	b. Regular—3 to 5 pounds	------	------	------	120.00	110.00	85.00	
	c. Regular—Over 5 pounds	150.00	140.00	130.00	130.00	120.00	95.00	
	d. Peeled	------	------	------	140.00	140.00	140.00	
7	Flank steak	65.00	65.00	65.00	65.00	65.00	65.00	
8	Chucks	67.00	67.00	67.00	63.00	62.00	57.00	
9	Rump	82.00	82.00	82.00	74.00	70.00	60.00	
10	Rounds	82.00	82.00	82.00	74.00	72.00	63.00	
11	Ground beef (bulk) [2]	55.00	55.00	55.00	55.00	55.00	55.00	
12	Ground beef in casings	56.00	56.00	56.00	56.00	56.00	56.00	
13	Ground beef patties	60.00	60.00	60.00	60.00	60.00	60.00	
14	Stewing beef	61.00	61.00	61.00	61.00	61.00	61.00	
15	Regular trimmings	47.00	47.00	47.00	47.00	47.00	47.00	
16	Sterilized trimmings	40.00	40.00	40.00	40.00	40.00	40.00	
17	Shank meat	58.00	58.00	58.00	58.00	58.00	58.00	
18	Tenderlion (military specifications).	------	------	------	------	115.00	------	
19	Lean ground beef (bulk) [2]	65.00	65.00	65.00	65.00	65.00	65.00	
20	Lean ground beef in casings	66.00	66.00	66.00	66.00	66.00	66.00	
21	Lean ground beef patties	70.00	70.00	70.00	70.00	70.00	70.00	
22	Outsides	82.00	82.00	82.00	74.00	72.00	63.00	
23	Skirt steaks	65.00	65.00	65.00	65.00	65.00	65.00	
24	Spencer rolls	------	------	------	85.00	85.00	70.00	
25	Plate and brisket trimmings (kosher and nonkosher).	34.00	34.00	34.00	34.00	34.00	34.00	

[1] Bull tenderloins shall be regarded as cutter and canner grade tenders for the purpose of pricing under Schedule III.
[2] If, at any time, a purchaser requests you to sell him ground beef (bulk) or ground beef patties, and you are unable to supply his demand, you may not sell him lean ground beef (bulk) or lean ground beef patties at a price in excess of the ceiling price for ground beef (bulk) or ground beef patties.

SPECIAL ADDITIONS

(1) If you are a hotel supply house, you may add $1.50 per cwt. to the prices listed above. You may not charge the amount permitted in this special addition unless the item sold was physically within the cooler of your selling establishment prior to delivery.

(2) If you are a combination distributor, you may add $2.00 per cwt. to the prices listed above. You may not charge the amount permitted in this special addition unless the item sold was physically within the cooler of your selling establishment prior to delivery.

(3) If you are an independent frozen food distributor (as defined in section 50 (cc) of this regulation) and you sell frozen ground beef, frozen lean ground beef, or frozen lean ground beef patties, which you purchase already processed and packaged for resale, from an unaffiliated source, you may add $5.00 per cwt. to the ceiling prices listed above on sales to retailers and purveyors of meals only.

8. Section 28 is amended by changing the title thereof to read as follows:

SEC. 28. *Schedule IX—Specialty products, prefabricated, quick frozen and packaged.*

9. Section 28, Schedule IX is amended by adding a new item 7 as follows:

Item	Price per hundredweight in zone 1
7. Flake steaks:	
(a) 1 pound or less package	$93.40
(b) Over 1 pound package	88.40

10. Article II is amended by adding a new section 29 to read as follows:

SEC. 29. *Miscuts, ungraded (or improperly graded) beef, and unauthorized sales.* For the sole purpose of measuring the amount of damages in civil actions under the provisions of the Defense Production Act of 1950, as amended, for violations of Section 11 of this regulation involving sales of other than defined cuts (miscuts), sales of ungraded (or improperly graded) beef, or unauthorized sales (either by unauthorized sellers or to unauthorized buyers) the following ceiling prices shall apply:

(a) *Miscuts.* The ceiling price for any beef product or part or portion thereof which has not been prepared in accordance with the standards prescribed in Appendices 2 through 8, inclusive, is 50 percent of the ceiling price for the most nearly similar beef product listed in this regulation. If the miscut is of such nature as to render the product unidentifiable, the ceiling price is equal to that for "flank", as listed in Schedule I.

(b) *Ungraded (or improperly graded) beef.* The ceiling price for any beef product (other than tenderloins) listed in section 20, 21 or 22 of this regulation, which does not clearly bear a correct grade mark as required by Distribution Regulation 2, as amended, is the ceiling price established by this regulation for the lowest grade of such beef product.

(c) *Unauthorized sales.* The ceiling price for any beef product sold in violation of section 11 (b) by an unauthorized seller or to an unauthorized buyer, is 50 percent of the ceiling price applicable to the same or most nearly similar class of buyer.

The ceiling price for any grade of beef sold when no specific ceiling price for beef of this grade has been established by the regulation, is the ceiling price of the nearest lower grade of the same item for which a specific ceiling price has been established by this regulation. If no specific ceiling price has been established for any lower grade, the ceiling price is 50 percent of the ceiling price for the lowest grade of the same item for which a specific ceiling price has been established by this regulation.

11. Section 50 is amended by adding a new section 50 (cc) to read as follows:

(cc) *Independent frozen food distributor* means a person who, (1) sells a frozen food item which is packaged, (2) buys this item already processed and packaged from a person with whom he is not affiliated, and (3) is not a processor of this particular type of frozen food item.

12. Appendix 3 (a) is amended by changing the first paragraph thereof to read as follows:

(a) Boneless beef cut means any of the following cuts derived from any grade of beef:

12a. Appendix 3 (a) (6) is amended to read as follows:

(6) *Boneless beef tenderloin* shall be removed from the loin in the manner prescribed in Appendix 4 (a) (11), and the same specifications for trimming the tenderloin, as outlined in that paragraph shall apply. A peeled tenderloin shall be prepared only from tenderloins weighing more than 5 pounds each. All skin and fat and large blood vessels are to be removed. The strip of lean meat lying along the edge of the tenderloin is to be completely removed to within 4½ inches from the butt of the tenderloin. Knife-gashed and hook-torn tenderloins are to be completely trimmed free of rough ends and slivers of thin meat. The trimmed weight of the completely peeled tenderloin shall not be less than 2¾ pounds each.

13. Appendix 4 (a) (19) is amended to read as follows:

(19) *Oven-prepared rib* means that part of seven-bone rib remaining after the chine bone and short ribs have been removed. The chine bone, or bodies of the thoracic vertebrae, shall be entirely removed by cutting to the point at which they join the feather bones, exposing the lean meat, but leaving the feather bones attached to the rib cut. The short ribs shall be removed by a cut which begins at a point on the twelfth rib not more than 8 inches from the protruding edge of the twelfth thoracic vertebra and continuing in a straight line to a point on the sixth rib which is not more than 8 inches from the protruding edge of the sixth thoracic vertebra (chine bone). All the blade bone including the cartilage shall be removed.

14. Appendix 4 (a) (27) is amended to read as follows:

(27) *Club steak (bone-in)* means a steak cut from that portion of a short loin extending from a point opposite the juncture of the first and second lumbar vertebrae to the forward end of the short loin. The chine bone shall be removed by chopping or sawing through the inner extremity of the spinal cord groove. Only complete club steaks shall be made. Not more than one inch of fat shall remain on the outside skin surface.

15. Appendix 4 (a) (10) is amended to read as follows:

(10) *Strip steak (bone-in)* means a steak cut from the bone-in strip loin. No further cutting or trimming is required.

16. Appendix 4 (a) (30) is amended to read as follows:

(30) *Boneless strip loin or boneless strip steaks.* A boneless strip loin shall be prepared by removing all bones from a bone-in strip loin. The flank end of the loin shall be removed to a point measured two inches downward from the lower end of the eye muscle. Not more than one-half inch of fat shall remain on the outside skin surface. The backstrap and all fat lying on the inside of the loin shall be removed. Boneless strip steaks shall be cut from a boneless strip loin as precribed herein. In trimming the fat from the outside surface, the grade mark shall not be removed.

17. Appendix 8 (f) is amended by adding the following new item:

7. *"Flake steak"* means a product prepared from unground boneless beef which has been thoroughly frozen at quick freezing temperatures; which has been flaked and molded into individual steaks; which does not have a fat content of more than 15 percent by chemical analysis; and which is packaged in the same manner as wafer steaks.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective July 16, 1952.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7777; Filed, July 11, 1952; 10:43 a. m.]

[Ceiling Price Regulation 93, Interpretation 13]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 13—SALES OF REAL PROPERTY BY BUILDING CONTRACTORS (GENERAL)

Builders who sell both land and buildings which they have erected on such land have inquired as to when the construction services involved are exempt and when they are controlled by CPR 93.

"Prices or rentals for real property" are exempted from price control by the Defense Production Act, as amended (section 402 (1) (i)). On the other hand, sales of construction services are subject to price controls under CPR 93. In some instances, owners of land sell or contract to sell the land and also perform or contract to perform construction services in erecting buildings upon the land. In dealing with such situations OPS has interpreted the statute and regulation to mean that construction services which are rendered by a seller of land after he has transferred the legal title to the land to a purchaser are subject to price controls under CPR 93. In such a case a seller of land is treated like any other person who renders construction services in erecting buildings on land owned by another. On the other hand, where the seller transfers the land after he has erected a building thereon, the sale of the land and the building to a purchaser, is exempt from price control.

The following examples illustrate the application of the foregoing principle:

(1) A builder, who owns the land, enters into a contract with a purchaser to build a house upon the land. Title to the land and the building is to pass to the purchaser upon the completion of the house. The transaction is exempt from price control. The fact that equitable title to the land passed upon the making of the contract is immaterial.

(2) A builder owns land on which he has started construction of a house. He enters into a contract for the sale of both the house and land to the purchaser, title to pass at the completion of the construction. Questions have been raised as to the proper interpretation of the law if the contract is entered into at various stages of completion, to wit:

a. After the foundation is in.
b. After the house is roughed in.
c. After the first FHA inspection.
d. After the second FHA inspection.

In each of the aforementioned situations the builder is exempt from price control, since legal title to the property does not pass to the purchaser until the construction has been completed.

(3) A builder owns land upon which there has been no construction. He enters into a contract with a purchaser to construct a house upon the land. Under the contract, title to the land passes to the purchaser at the time the builder and the purchaser enter into the contract for construction. Since title to the land passes to the purchaser at the time of entrance into the contract for construction the builder is subject to CPR 93.

(4) A completed new house that has never been lived in is sold by the builder who owns the land and the house. The builder who owns land and did the construction work is exempt from price control when he sells the property.

(5) Where the land is owned by one who hires a builder to build a house on the land, the builder is performing a construction service and is required to comply with the provisions of CPR 93.

(6) X corporation is the owner of a parcel of land and Y corporation is a builder. X corporation and Y corporation are owned and controlled by the same individual. X corporation (the land owner) enters into a contract for construction with the purchaser, the construction services to be performed by Y corporation. When land is owned by one corporate entity or individual, and construction services are performed by another corporation or individual, the construction services are covered by CPR 93. In the absence of fraud or other facts which would justify "piercing the corporate veil" under the common law, the OPS will not pierce the corporate veil, even though both corporations are actually owned or controlled by one individual.

(7) The situation is the same as in (6) above, except that the purchaser enters into the contract for the purchase of the land with X corporation (the land owner) and enters into a separate contract to construct the building with Y corporation (the building corporation), instead of with X corporation (the landowning corporation). Y corporation is governed by CPR 93, since Y corporation does not itself own the land.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7780; Filed, July 11, 1952; 4:00 p. m.]

[Ceiling Price Regulation 93, Interpretation 15]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 15—EXEMPTION OF "ONE-MAN SHOPS"—VIOLATION OF CPR 34 (SECTION 1 (B)), AS AMENDED

The exemption granted "one-man shops" went into effect November 20, 1951 when CPR 93 became effective. Acts which occurred prior to that date and which violated CPR 34 were not legalized by the issuance of CPR 93. The language of section 1 (b) "neither this regulation nor any other regulation heretofore or hereafter issued by OPS" is applied only prospectively. However, the "one-man shop" exemption of CPR 93 would apply to regulations previously issued.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7782; Filed, July 11, 1952; 4:00 p. m.]

[Ceiling Price Regulation 157]

CPR 157—CEILING PRICES FOR THE EASTERN WOOD PRESERVING INDUSTRY

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 and Economic Stabilization Agency General Order No. 2, this Ceiling Price Regulation 157 is hereby issued.

STATEMENT OF CONSIDERATIONS

This regulation establishes ceiling prices for the service of preservatively treating forest products, by pressure or non-pressure processes, when the treatment is done in the part of the United States east of the 100th meridian, except North Dakota and South Dakota; it also establishes ceiling prices for sales by treaters of all preservatively treated forest products treated by pressure or non-pressure processes in the part of the United States east of the 100th meridian, except North Dakota and South Dakota.

The industry covered is essentially of the service type. No basic change in the form of the products treated is made; in each case the product is prepared, incident to treatment, and treated according to specifications set by the purchaser.

Forest products such as lumber, poles, piling, posts, bridge materials, railroad ties, railroad crossings, and wood block flooring are treated with a preservative or fire retardant to protect the wood against decay, insect damage, and fire hazard. Considerable quantities of these treated products are used in the Defense Program.

Pressure and non-pressure treatment processes are covered by this regulation. In the pressure process an oil or water borne preservative, or a fire retardant is forced into the material in a closed cylinder (retort) under pressure, the amount of preservative injected and left in the wood in each case being specified by the purchaser. In the non-pressure process, mainly an open tank or vat process, the products to be treated are immersed in a hot preservative; this is followed by immersion in a cold preservative, for varying lengths of time, depending on the degree of absorption which is desired.

According to statistics compiled by the U. S. Forest Service in cooperation with the American Wood Preservers' Association, there were on July 15, 1951, in the area covered by this regulation, 190 commercial treating plants. Of this total, 149 were pressure plants, 34 were non-pressure plants, and 7 were combined pressure and non-pressure plants. The U. S. Census of Manufacturers for 1947 indicated the value of the product shipped as approximately 250 million dollars annually.

The wood preserving industry has two classes of sales, (1), the sale of treated forest products in which the treater furnishes the untreated product as well as the treating service, and (2), the sale of the treating service only, referred to in the industry as "TSO", in which the customer provides the untreated forest products, and the treater provides the treatment service, including the preservative and miscellaneous services incidental to the treatment.

Under this regulation, ceiling prices are determined by treaters by the use of either the formula that they were using during the base period, January 25 through February 24, 1951, inclusive; or, if they were using an established price list or a contract listing prices during the base period, they must use such price list or contract listing prices, adjusted to reflect current costs for the untreated forest products supplied if any, and reflecting any changes in cost of the preservative up to July 11, 1952.

In using the formula method, producers apply their raw material, treatment, margin, and transportation factors in the same manner as they did during the base period reflecting current costs for untreated forest products and costs for preservatives incurred up to July 11, 1952.

The treatment factor cannot exceed costs during the base period for the elements comprising the treatment factor.

The margin factor is the base period margin, computed on a dollar and cent basis and converted to a rate per unit of material.

The transportation factor is determined by the actual transportation cost, if known; otherwise, it is determined by multiplying the established weights of the products by the applicable freight rate in effect at the time of shipment. If the untreated material originates at several loading out points, an average inbound or through freight rate may be used.

The ceiling prices established by this regulation may thus exceed the GCPR level to the extent of increases in the cost of raw materials and transportation costs since the GCPR base period. Current costs of preservatives are not generally higher than they were in the base period. The treating costs and margin factor are limited to the GCPR level.

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purpose of Title IV of the Defense Production Act of 1950, as amended.

As far as practical, in the formulation of this regulation, the Director of Price Stabilization has given due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended; to prices prevailing during the period from May 24, 1950 to June 24, 1950, inclusive; to those prevailing during the period January 25 through February 24, 1951, as well as to the level of prices prevailing just before the issuance of this regulation; and to all relevant factors of general applicability.

In formulating this regulation, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations. This consultation included two meetings with the Industry Advisory Committee for the Eastern wood preserving industry.

Every effort has been made to conform this regulation to business practices existing with respect to the treatment, sale, and distribution of preservatively treated forest products covered in the regulation. Insofar as any provisions of this regulation may operate to compel changes in those business practices, such provisions are found by the Director of Price Stabilization to be necessary to prevent circumvention or evasion of this regulation.

REGULATORY PROVISIONS

Sec.

AUTHORITY: Sections 1 to 16 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or Apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101-2110, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this regulation does.* (a) This regulation establishes ceiling prices for the service of preservatively treating forest products, by pressure or non-pressure processes, when the treatment is done in the part of the United States east of the 100th meridian, except North Dakota and South Dakota; it also

establishes ceiling prices for sales by treaters of all preservatively treated forest products treated, by pressure or nonpressure processes, in the part of the United States east of the 100th meridian, except North Dakota and South Dakota.

(b) The sales covered by this regulation fall into two divisions: (1) Sales of treatment services only, where the forest products are not supplied by the seller of the treatment; and (2) sales of treated forest products, where both forest products and treatment are supplied by the seller. Among the forest products covered by this regulation, but not limited thereto, are bridges, poles, piling, lumber, railroad crossings, railroad ties, and wood block flooring.

(c) Your ceiling prices are established by the application of the pricing method used by you during the base period of this regulation. If you used a price list, or a contract listing prices, or a formula during the base period, you must use the same method to determine your ceiling prices to each class of purchaser under this regulation. Limitations upon the use of these pricing methods are contained in section 5. Lower prices than those established by this regulation may be offered, charged, demanded, or paid.

SEC. 2. *What regulations are superseded.* This regulation supersedes the General Ceiling Price Regulation, Ceiling Price Regulation 34, Ceiling Price Regulation 126, Ceiling Price Regulation 155, and Supplementary Regulation 102 to the GCPR, insofar as they pertain to the transactions covered by this regulation.

SEC. 3. *Geographical applicability.* The provisions of this regulation shall apply within the forty-eight States of the United States and the District of Columbia.

SEC. 4. *Base period.* Your ceiling prices to each class of purchaser for the products and services covered by this regulation are ascertained by using your price list, or contract listing prices, or formula, in effect during the period from January 25, 1951, through February 24, 1951, hereinafter called the "base period".

SEC. 5. *Ceiling prices.*—(a) *Formula method.* If you use the formula method, it shall contain the following factors: Raw material, treatment, margin, and transportation. To establish a ceiling price for your product or service by the formula method, you apply these factors just as you would have done during the base period. However, in determining each factor, you shall comply with the following limitations:

(1) *Raw material factor.* (i) Except as provided in subdivision (ii) below, in calculating your raw material factor, you shall use the current actual cost to you of the untreated forest product from your normal source of supply and the highest cost to you from your normal source of supply between December 19, 1950 and July 11, 1952 for the preservative used by you, but such costs may not exceed applicable ceiling prices under Office of Price Stabilization regulations. Your raw material costs shall be calculated in your base period manner: If you used the practice of averaging your raw material costs during the base period, you shall continue such practice.

(ii) If you are a treater who is fully or partially owned or controlled by, or financially connected with your raw material supplier, your raw material factor with respect to your untreated forest product and the preservative used by you shall be based upon a transfer price computed in the same manner as during the base period using the same accounting method (for example, transfer the cost or the market price), classification, and quantity variation. However, the transfer price may not exceed either the highest transfer price of such raw materials during the base period, or, with respect to the untreated forest product, the supplier's current applicable ceiling price, or with respect to the preservative used by you, your supplier's ceiling price on July 11, 1952.

(iii) If you are a treater who is fully or partly owned or controlled by, or financially connected with your raw material supplier or suppliers, and you also purchase raw materials from a supplier or suppliers not fully or partially owned by, or not financially connected with you, you may, within the limitations set out in subdivisions (i) and (ii) above, compute your raw material factor just as you did during the base period.

(iv) If you included amounts for cullage and carrying charges in computing your raw material factor during the base period, you may continue to do so in your base period manner. However, you may not add more than the same percentage allowed during the base period, and you must subtract credits received from the sale or other disposition of culled material in the same manner in which such credits were subtracted during the base period.

(2) *Treatment factor.* Your treatment factor shall include charges for the actual treatment, as well as charges incident to the treatment of the product such as, but not limited to, yarding, framing, fabricating, kiln drying, incising, inspection, adzing, and boring. These charges may not exceed your actual costs during the base period for the elements that constitute your treating factor. The treatment factor for a product or service which was not offered or sold by you during the base period shall be determined in the same manner as you determined the treatment factor for the most comparable product or service contracted to be sold during the base period.

(3) *Margin factor.* (i) Your margin factor is the difference between your selling price f. o. b. shipping point and the sum of your raw material and treatment factors, as applied during the base period. Your margin factor for each group of products (such as poles, piling, or railroad ties) to each class of purchaser shall be the highest dollar and cents margin used by you on sales to that class of purchaser during the base period with respect to any item in that group of products, and converted to a rate per unit of material.

(ii) You shall continue to figure your margins by the same accounting and costing practices used by you during the base period, or you may change such practices provided a higher price does not result than that which would have resulted by the use of your base period practices.

(iii) If you were not engaged during the base period in treating or selling a group of products covered by this regulation, your margin shall not be greater than the margin determined under section 7 of this regulation.

(4) *Transportation factor.* You shall continue to sell f. o. b. original loading out point of the untreated material, f. o. b. treating plant, or on a delivered price basis, in accordance with your customary practices during the base period.

(i) *F. o. b. treating plant.* In such sales, if known, the actual transportation cost of the untreated forest product from loading out point to treating plant must be used; if unknown, the cost may be calculated by multiplying the weight (as established in the applicable Office of Price Stabilization regulation, or, if none is established by regulation, the estimated weight used by you during the base period) for the untreated material by the applicable freight rate in effect at the time of shipment. If the untreated material is received from several loading out points, an average inbound freight rate may be used.

(ii) *Sales on delivered basis.* (a) Where treating in transit rates are available, the transportation addition must be figured by multiplying the through freight rate from the original loading out point by the appropriate established weights in section 6. If the untreated forest product is received from several loading out points, an average through freight rate may be used. You may add the transit charge to the through freight charge. When transit privileges do not apply, the transportation addition is the freight charge from loading out point to treating plant (computed as provided in subdivision (i) of this subparagraph) plus the freight charges from the treating plant to the point of destination (calculated by multiplying the established weight of the treated material, as set forth in section 6, by the applicable freight rate in effect at the time of shipment).

(b) If shipment is by truck owned or controlled by you, a charge not in excess of the common carrier published rate may be made. If there is no published rate, the actual cost of transportation may be charged.

(c) When truck delivery follows a rail haul, as specified by the purchaser, the actual cost of truck delivery may be added. This may include the cost of unloading, handling, and reloading involved in the transfer from rail car to the truck and the cost of unloading the truck at the point of destination, if actually performed by you. When an all truck haul ends in delivery to a job site or a storage yard and the unloading is performed by you, you may add the actual cost of unloading.

(b) *Price list.* (1) If you used a price list for the sale of your services or products, or both, during the base period, which you published or circulated to the trade, you must use as the ceiling prices

to the class of purchaser involved, the prices contained in that list, subject to the discounts and allowances then in effect, but adjusted up or down to reflect (1) the dollar-and-cent difference between the highest price at which you contracted during the base period to purchase the untreated forest product supplied by you, if any, from your normal source of supply, and the current actual cost to you of such untreated forest product from your normal source of supply, and (2) the dollar-and-cent difference between the highest price at which you contracted during the base period to purchase the preservative used by you from your normal source of supply and the highest cost to you for such preservative between December 19, 1950 and July 11, 1952 from your normal source of supply. If you did not contract to purchase the untreated forest product during the base period, you use in making the adjustment, up or down, the dollar-and-cent difference between the highest price at which you contracted during the base period to purchase from your normal source of supply the most comparable untreated forest product for which you made a base period purchase contract and the current actual cost to you from your normal source of supply of such untreated forest product. Your current actual cost of untreated forest products may not exceed applicable ceiling prices under current OPS regulations and your highest cost for a preservative between December 19, 1950 and July 11, 1952 may not exceed the applicable ceiling price on July 11, 1952.

(2) The ceiling prices established by such a price list shall be subject to nonretroactive disapproval or adjustment, at any time, by the Director of Price Stabilization to bring said prices into line with the general level of ceiling prices established by this regulation.

(c) *Contract listing prices.* If you had a written contract listing prices for the sales of your services or products, or both, in effect during the base period, you may use as your ceiling prices to the class of purchaser involved, the prices contained in that contract, subject to the discounts and allowances then in effect, but adjusted up or down, in the same manner as prescribed in paragraph (b) of this section, to reflect differences between contract to purchase prices and costs of both the untreated forest product, supplied by you, if any, and the preservative used by you. The ceiling prices established by such contract shall be subject to nonretroactive disapproval or adjustment, at any time, by the Director of Price Stabilization to bring said prices into line with the general level of ceiling prices established by this regulation.

SEC. 6. *Established weights for treated forest products.* The following are the established weights in pounds, per piece or measure, as indicated, for preservatively treated products covered by this regulation.

(a) *Poles.*

TABLE I—DOUGLAS FIR POLES

[Established weights in pounds per pole, classed according to American Standard Association specifications, in effect, on the effective date of this regulation]

Lengths (feet)	Classes									
	1	2	3	4	5	6	7	8	9	10
16	----	----	----	----	205	175	145	165	120	95
18	----	----	330	285	240	205	165	185	130	115
20	610	490	410	345	290	250	205	230	175	140
22	720	590	490	405	350	295	250	270	205	165
25	865	710	590	500	430	370	300	340	250	205
30	1,115	945	805	685	575	480	395	450	325	----
35	1,370	1,170	1,010	875	730	650	565	610	----	----
40	1,645	1,415	1,225	1,065	925	805	705	----	----	----
45	1,940	1,670	1,450	1,260	1,110	970	850	----	----	----
50	2,255	1,930	1,680	1,470	1,305	1,160	1,020	----	----	----
55	2,610	2,240	2,920	2,690	1,500	1,365	----	----	----	----
60	3,010	2,570	2,190	1,910	1,705	1,570	----	----	----	----
65	3,505	2,915	2,455	2,146	1,950	----	----	----	----	----
70	4,030	3,300	2,745	2,385	2,170	----	----	----	----	----
75	4,535	3,695	3,060	2,635	----	----	----	----	----	----
80	5,120	4,135	3,390	2,890	----	----	----	----	----	----
85	5,760	4,595	3,750	----	----	----	----	----	----	----
90	6,510	5,125	4,130	----	----	----	----	----	----	----
95	7,140	5,520	----	----	----	----	----	----	----	----
100	7,785	5,920	----	----	----	----	----	----	----	----

NOTE: The weights in this table are based on treatment with a final retention of 8-pound grade 1 creosote oil. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each 1 pound variation in the retention of the preservative specified.

TABLE II—JACK PINE AND RED (NORWAY) PINE POLES

[Established weights in pounds per pole, classed according to American Standard Association specifications, in effect, on the effective date of this regulation]

Lengths (feet)	Classes									
	1	2	3	4	5	6	7	8	9	10
16	----	----	----	----	223	196	170	180	150	115
18	----	----	373	320	278	233	195	205	176	135
20	546	487	432	370	325	280	245	260	214	156
22	645	579	506	419	374	324	285	305	242	177
25	807	702	604	525	461	402	340	385	288	213
30	1,084	945	821	708	599	525	456	513	371	----
35	1,373	1,192	1,041	900	807	684	612	----	----	----
40	1,705	1,489	1,266	1,100	947	805	674	----	----	----
45	2,043	1,773	1,514	1,299	1,121	958	807	----	----	----
50	2,451	2,080	1,806	1,539	1,310	1,124	952	----	----	----
55	2,785	2,379	2,048	1,741	1,488	1,254	----	----	----	----
60	3,210	2,726	2,337	1,968	1,691	1,444	----	----	----	----

NOTE: The weights in this table are based on treatment with a final retention of 8-pound grade 1 creosote oil. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each 1 pound variation in the retention of the preservative specified.

TABLE III—LODGEPOLE PINE POLES

[Established weights in pounds per pole, classed according to American Standard Association specifications, in effect, on the effective date of this regulation]

Lengths (feet)	Classes									
	1	2	3	4	5	6	7	8	9	10
16	----	----	----	----	186	160	131	150	109	87
18	----	----	302	254	218	186	150	167	120	105
20	564	448	371	313	262	226	186	207	160	128
22	655	535	444	368	317	270	226	244	185	150
25	802	655	546	462	395	336	277	295	231	----
30	1,033	869	739	630	529	441	365	340	315	----
35	1,264	1,079	928	802	685	592	512	433	420	----
40	1,520	1,302	1,126	970	844	735	638	----	----	----
45	1,780	1,529	1,327	1,155	1,008	882	773	----	----	----
50	2,075	1,764	1,537	1,336	1,184	1,046	920	----	----	----
55	2,373	2,045	1,747	1,525	1,361	1,231	----	----	----	----
60	2,755	2,327	1,991	1,730	1,537	----	----	----	----	----
65	3,190	2,655	2,220	----	----	----	----	----	----	----
70	3,670	2,985	2,470	----	----	----	----	----	----	----
75	4,110	3,350	----	----	----	----	----	----	----	----

NOTE: The weights in this table are based on treatment with a final retention of 8-pound grade 1 creosote oil. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each 1 pound variation in the retention of the preservative specified.

Table IV—Southern Yellow Pine Poles

[Established weights in pounds per pole, classed according to American Standard Association specifications, in effect, on the effective date of this regulation]

Lengths (feet)	Classes									
	1	2	3	4	5	6	7	8	9	10
16					234	202	165	158	138	110
18			380	326	273	234	188	211	151	133
20	710	564	467	394	330	284	234	261	202	160
22	825	674	559	463	398	339	284	307	234	188
25	990	811	674	573	490	422	344	389	289	235
30	1,280	1,082	921	784	660	550	454	513	371	
35	1,567	1,343	1,153	1,004	862	742	646	697		
40	1,884	1,622	1,403	1,219	1,089	921	807			
45	2,222	1,911	1,664	1,444	1,274	1,114	976			
50	2,585	2,214	1,925	1,697	1,494	1,329	1,169			
55	2,903	2,567	2,200	1,934	1,718	1,563				
60	3,765	3,210	2,740	2,383	2,130	1,963				
65	4,380	3,645	3,070	2,680	2,440					
70	5,040	4,125	3,430	2,980	2,715					
75	5,670	4,620	3,823	3,295						
80	6,400	5,170	4,240	3,615						
85	7,200	5,745	4,690							
90	8,140	6,405	5,160							

NOTE: The weights in this table are based on treatment with a final retention of 8-pound grade 1 creosote oil. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each 1 pound variation in the retention of the preservative specified.

Table V—Western Larch Poles

[Established weights in pounds per pole, classed according to American Standard Association specifications, in effect on the effective date of this regulation]

Lengths (feet)	Classes								
	1	2	3	4	5	6	7	8	9
20	645	515	425	355	300	255	220		180
25	895	730	610	520	440	380	415	255	260
30	1,155	975	830	710	595	495	410	390	355
35	1,420	1,210	1,040	900	775	675	555	495	
40	1,707	1,465	1,273	1,095	955	840	725		
45	2,200	1,885	1,645	1,435	1,260	1,110			
50	2,555	2,190	1,900	1,670	1,475	1,315			
55	2,945	2,535	2,175	1,910	1,705	1,545			
60	3,415	2,895	2,485	2,165	1,935				
65	3,970	3,355	2,780	2,425	2,215				
70	4,565	3,740	3,095	2,630	2,400				
75	5,130	4,180	3,350	2,835					
80	5,300	4,290	3,520	3,000					
85	5,970	4,760	3,895						
90	6,740	5,310	4,280						

NOTE: The weights in this table are based on treatment with a final retention of 8-pound grade 1 creosote oil. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each 1 pound variation in the retention of the preservative specified.

Table VI—Northern White Cedar Poles

[Established weight in pounds per pole, classed according to American Standard Association specifications, in effect, on the effective date of this regulation]

Classes	1	2	3	4	5	6	7	8	9	10
Top diameter								6"	5"	4"
Lengths (feet):										
16					230	190	135	135	105	85
18	720	600	540	350	300	250	190	190	130	100
20	720	600	540	350	300	230	190	190	130	100
22	1,020	780	540	500	420	300	225	225	200	150
25	1,020	780	540	500	420	300	250	250	200	150
30	1,320	1,170	870	630	520	420	350	350	275	
35	1,620	1,380	1,060	820	720	510	450			
40	2,040	1,675	1,280	1,030	790	740				
45	2,640	1,970	1,535	1,215	1,060					
50	3,200	2,640	1,860	1,470	1,350					
55	3,800	2,900	2,290	1,620	1,500					
60	4,500	3,460	2,640	2,200						

Table VII—Western Red Cedar Poles

[Established weights in pounds per pole, classed according to American Standard Association specifications, in effect, on the effective date of this regulation]

Length (feet)	Classes												
	Heavy duty	1 (30" top)	1	2 (30" top)	2	3	4	5	6	7	8	9	10
16								230	190	135	135	105	85
18						440	350	265	185	175	160	120	90
20			615		530	440	350	265	200	175	160	120	90
22			750		633	530	425	350	280	220	205	180	120
25			750		625	530	425	350	280	220	205	180	120
30	1,285	1,120	880	960	750	645	540	440	370	310	295	225	
35	1,490	1,305	1,055	1,180	880	750	660	570	495	415	445		
40	1,725	1,500	1,320	1,400	1,145	970	790	705	615	615			
45	1,990	1,520	1,565	1,575	1,365	1,145	1,010	880	880				
50	2,515	2,090	1,760	1,750	1,585	1,365	1,230	1,145	1,145				
55	2,870	2,415	2,025	2,015	1,760	1,560	1,410	1,410					
60	3,235	2,970	2,290	2,455	1,935	1,760	1,670						
65	4,100	3,495	2,815	2,985	2,200	2,025	1,935						
70	4,540	4,300	3,170	3,510	2,640	2,375	2,200						
75			3,695		3,170	2,730	2,640						
80			4,400		3,695	3,170	3,080						
85			4,840		3,960	3,520	3,520						
90			5,810		4,930	4,225							
95			6,750		5,950	5,250							
100			7,500		6,550	5,730							
105			8,250		7,100	6,300							
110			9,000		7,700	6,550							
115			9,750		8,350	7,300							
120			10,500		9,050	8,100							
125			11,350		9,800	8,750							

(b) *Piling.*

TABLE I—DOUGLAS FIR PILING AND OTHER WEST COAST SPECIES

[Established weight in pounds per lineal foot for 10-pound final retention]

Lengths (feet)	9" minimum butt includes 8" 1' to 8" 6'	10" minimum butt includes 9" 1' to 9" 6'	11" minimum butt includes 10" 1' to 10" 6'	12" minimum butt includes 11" 1' to 11" 6'	13" minimum butt includes 12" 1' to 12" 6'	14" minimum butt includes 13" 1' to 13" 6'	15" minimum butt includes 14" 1' to 14" 6'	16" minimum butt includes 15" 1' to 15" 6'
15-17	23	27	33	39	47	53	61	69
18-22	21	26	32	38	44	51	59	67
23-27	20	25	30	37	43	50	57	65
28-32	19	24	29	35	41	48	55	63
33-37	18	23	28	34	39	46	52	61
38-42	17	22	26	32	38	45	52	59
43-47	16	21	25	31	37	43	50	58
48-52	15	20	24	29	35	41	49	56
53-57				28	34	40	47	54
58-62				27	33	38	45	52
63-67				26	31	37	44	51
68-72				25	30	36	42	49
73-77				24	29	35	40	47
78-82						33	39	46
83-87						32	38	44
88-92						31	37	43
93-97						29	35	41
98-102						28	34	40
103-107							33	38
108-112							32	37
113-117								36
118-122								35
123-127								

Lengths (feet)	17" minimum butt includes 16" 1' to 16" 6'	18" minimum butt includes 17" 1' to 17" 6'	19" minimum butt includes 18" 1' to 18" 6'	20" minimum butt includes 19" 1' to 19" 6'	21" minimum butt includes 20" 1' to 20" 6'	22" minimum butt includes 21" 1' to 21" 1'	23" minimum butt includes 22" 1' to 22" 6'
15-17	78	87					
18-22	76	85					
23-27	74	83					
28-32	72	80					
33-37	70	78					
38-42	67	76					
43-47	65	74					
48-52	63	72	80	90	100	110	121
53-57	62	70	78	88	97	108	119
58-62	60	68	76	85	95	106	116
63-67	58	66	74	83	93	103	114
68-72	56	64	72	81	91	101	111
73-77	54	62	70	79	88	98	108
78-82	53	61	68	77	86	96	106
83-87	51	59	67	75	84	94	104
88-92	50	57	65	73	82	91	101
93-97	48	55	63	71	80	89	99
98-102	47	53	61	69	78	87	96
103-107	45	52					
108-112	44	51					
113-117	42	49					
118-122	41	48					
123-127	39	46					

NOTES

(1) Where top diameter controls the size of the pile to be furnished, the butt diameter may be determined by adding to the diameter 1" for each 10' of length. For example, if a 40' pile is ordered measuring not less than 12" at the butt with a minimum top of 10", figuring a natural taper of 1" for each 10' of length, the butt diameter would be 10" top plus 4" or 14" and the weight is found under the heading 14" minimum butt.

(2) To arrive at the weight for piling with a minimum diameter at a specified point more than 6' from the butt:

(a) Convert this specified diameter to a diameter 6' from the butt by adding 1" for each 10' or fraction thereof by which the distance from the butt to the specified point exceeds 6'.

(b) Select the weight in the tables applicable to the diameter 6' from the butt determined in (a) above.

For example: (1) A pile measuring 12" 7' from the butt would be figured as follows:

	Inches
Diameter 7' from butt	12
7' exceeds 6' by 1' add for 1' (fraction of 10')	1
Diameter 6' from butt	13

The weight is found under column headed 14" minimum butt which includes weight for 13" 6' from the butt.

(2) A 70' pile measuring 12" one-quarter of the length from the butt would be figured as follows:

	Inches
Diameter 17½' from the butt (¼ of 70')	12
17½' exceeds 6' by 11½' add for 10'	1
Add for 1½' (fraction of 10')	1
Diameter 6' from butt	14

The weight is found under column headed 15" minimum butt, which includes weight for 14" 6' from the butt.

(3) For retention of preservative other than 10 pounds per cubic foot, add to or subtract from the weights for 10 pounds retention 1 pound per cubic foot for each pound variation in the retention of preservative specified.

TABLE II—SOUTHERN YELLOW PINE PILING

[Established weights in pounds per lineal foot for 12-pound final retention]

Lengths (feet)	9" minimum butt includes 8" 1' to 8" 3'	10" minimum butt includes 8" 4' to 8" 6' and 9" 1' to 9" 3'	11" minimum butt includes 9" 4' to 9" 6' and 10" 1' to 10" 3'	12" minimum butt includes 10" 4' to 10" 6' and 11" 1' to 11" 3'	13" minimum butt includes 11" 4' to 11" 6' and 12" 1' to 12" 3'	14" minimum butt includes 12" 4' to 12" 6' and 13" 1' to 13" 3'	15" minimum butt includes 13" 4' to 13" 6' and 14" 1' to 14" 3'	16" minimum butt includes 14" 4' to 14" 6' and 15" 1' to 15" 3'	17" minimum butt includes 15" 4' to 15" 6' and 16" 1' to 16" 3'	18" minimum butt includes 16" 4' to 16" 6' and 17" 1' to 17" 3'
15-17	33	34	41	48	56	65	75			
18-22	28	32	39	47	54	64	73			
23-27	25	31	37	44	53	61	70			
28-32	24	30	35	42	51	59	68	77		
33-37	22	28	34	41	48	57	65	75	85	
38-42	21	27	32	40	47	55	64	73	83	
43-47	20	25	31	38	45	53	61	71	80	91
48-52	19	24	30	36	43	51	60	68	78	89
53-57				35	41	49	57	66	76	86
58-62				33	40	47	55	64	73	83
63-67				32	38	45	54	62	71	81
68-72				31	37	44	52	60	69	78
73-77				29	35	42	50	58	67	76

NOTES

(1) Where top diameter controls the size of the pile to be furnished, the butt diameter may be determined by adding to the diameter 1" for each 10' of length. For example, if a 40' pile is ordered measuring not less than 12" at the butt with a minimum top of 10", figuring a natural taper of 1" for each 10' of length, the butt diameter would be 10" top plus 4" or 14".

(2) To arrive at the weight for piling with a minimum diameter at a specified point more than 6' from the butt:

(a) Convert this specified diameter to a diameter 6' from the butt by adding 1" for each 10' or fraction thereof by which the distance from the butt to the specified point exceeds 6'.

(b) Select the weight in the tables applicable to the diameter 6' from the butt determined in (a) above. For example:

(i) A pile measuring 12" 7 feet from the butt would be figured as follows:

	Inches
Diameter 7' from butt	12
7' exceeds 6' by 1' add for 1' (fraction of 10')	1
Diameter 6' from butt	13

(ii) A 70' pile measuring 12" one-quarter of the length from the butt would be figured as follows:

	Inches
Diameter 17½' from the butt (¼ of 70')	12
17½ exceeds 6' by 11½', add for 10'	1
Add for 1½ (fraction of 10')	1
Diameter 6' from butt	14

(3) For retentions of preservative other than 12 pounds per cubic foot, add to or subtract from the weights for 12 pounds retention 1 pound per cubic foot for each pound variation in the retention of preservative specified.

(c) *Plywood.*

TABLE I—DOUGLAS FIR PLYWOOD

[Established weights per 1,000 square feet; preservatively salt treated]

Thickness (inches)	Untreated weights as established by CPR 122	Additions to untreated weights in CPR 122	
		Shipped without kiln or air-dried after treatment	Shipped kiln or air-dried after treatment
1/4	490	150	50
5/16	640	200	75
3/8	790	275	100
7/16	950	325	125
1/2	1,125	400	150
9/16	1,300	450	175
5/8	1,525	525	200
11/16	1,675	575	225
3/4	1,825	650	250
13/16	2,000	700	275
7/8	2,225	775	300
15/16	2,375	825	325
1	2,600	900	350
1 1/16	2,800	950	375
1 1/8	3,000	1,000	400
1 3/16	3,175	1,075	425
1 1/4	3,350	1,150	450

TABLE IA—DOUGLAS FIR PLYWOOD

[Established weights per MFBM; fire retardant treated]

Thickness (inches)	Untreated weights as established by CPR 122	Additions to untreated weights in CPR 122		
		Grade H and M treatment shipped without kiln or air-dried after treatment	Grade H treatment kiln or air-dried after treatment	Grade M treatment kiln or air-dried after treatment
1/4	490	225	125	100
5/16	640	325	200	150
3/8	790	425	275	200
7/16	950	525	325	250
1/2	1,125	625	375	300
9/16	1,300	725	425	350
5/8	1,525	825	475	400
11/16	1,675	925	525	450
3/4	1,825	1,025	600	500
13/16	2,000	1,125	675	550
7/8	2,225	1,225	725	600
15/16	2,375	1,325	800	650
1	2,600	1,425	850	700
1 1/16	2,800	1,500	900	725
1 1/8	3,000	1,600	950	750
1 3/16	3,175	1,700	1,025	800
1 1/4	3,350	1,800	1,075	850

(d) *Posts.*

TABLE I—SOUTHERN PINE POSTS

[Established weight in pounds per post]

Lengths	Diameter at small end	Weight
5'	2 1/2" Round	12
	3" Round	16
	3 1/2" Round	22
	4" Round	27
	4 1/2" Round	33
	5" Round	47
	6" Round	65
6 1/2'	2 1/2" Round	13
	3" Round	18
	3 1/2" Round	23
	4" Round	29
	4 1/2" Round	36
	5" Round	51
	6" Round	70
7'	2 1/2" Round	14
	3" Round	19
	3 1/2" Round	25
	4" Round	32
	4 1/2" Round	39
	5" Round	54
	6" Round	75
	7" Round	105
8'	2 1/2" Round	15
	3" Round	23
	3 1/2" Round	31
	4" Round	36
	4 1/2" Round	50
	5" Round	62
	6" Round	90

(d) *Posts*—Continued

Lengths	Diameter at small end	Weight
8'—Continued	7" Round	119
	8" Round	151
9'	6" Round	100
	7" Round	133
	8" Round	169
	9" Round	210
10'	2 1/2" Round	19
	3" Round	32
	3 1/2" Round	39
	4" Round	53
	4 1/2" Round	63
	5" Round	83
	6" Round	113
	7" Round	151
	8" Round	189
	9" Round	234
12'	2 1/2" Round	24
	3" Round	40
	3 1/2" Round	47
	4" Round	63
	4 1/2" Round	77
	5" Round	99
	6" Round	135
14'	2 1/2" Round	28
	3" Round	45
	3 1/2" Round	55
	4" Round	74
	4 1/2" Round	88
	5" Round	115
	6" Round	160
6'	4" Halves	15
	4 1/2" Halves	18
	5" Halves	22
	5 1/2" Halves	27
	6" Halves	34
6 1/2'	4" Halves	16
	4 1/2" Halves	20
	5" Halves	24
	5 1/2" Halves	29
	6" Halves	36
7'	4" Halves	17
	4 1/2" Halves	22
	5" Halves	26
	5 1/2" Halves	31
	6" Halves	40
8'	4" Halves	20
	4 1/2" Halves	25
	5" Halves	30
	5 1/2" Halves	35
	6" Halves	45
6'	7" Quarters	22
	8" Quarters	31
6 1/2'	7" Quarters	24
	8" Quarters	33
7'	7" Quarters	25
	8" Quarters	37
8'	7" Quarters	30
	8" Quarters	44

NOTE: The weights in this table are based on treatment with a final retention of 6 pounds of creosote oil. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each pound variation in the retention of preservative specified.

(e) *Railroad ties.*

TABLE I—CROSS TIES

[Established weights in pounds per tie grouped according to American Railway Engineering Association specifications in effect on January 31, 1952]

Size	Group					
	TA		TB		TC and TD	
	8'	8' 6"	8'	8' 6"	8'	8' 6"
5	240	255	195	208	220	235
4	220	235	175	185	205	215
3A	200	215	160	170	185	200
3	180	195	145	155	170	180
2	175	190	140	150	160	175
1	170	180	135	145	155	170
SR—7"	200	215	160	170	185	200
SR—6"	175	190	140	150	160	175

TABLE IA—SWITCH TIES

[Established weights in pounds per MFBM for ties grouped according to American Railway Engineering Association specifications in effect on January 31, 1952]

Group TA	6,000
Group TB	4,800
Group TC and TD	5,550

NOTE: The above weights for cross ties and switch ties are based on the retention of 8 pounds of creosote oil per cubic foot. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each 1 pound variation in the retention.

(f) *Reinforcing stubs, anchor logs and short round material.*

TABLE I—WESTERN RED CEDAR REINFORCING STUBS ANCHOR LOGS AND SHORT ROUND MATERIAL

[Established weight in pounds per lineal foot]

Minimum diameter at small end in inches	Minimum circumference at small end in inches	Weight
5	15	6
6	18½	8
7	22	10
8	25	15
9	28	20
10	31	25
11	34	30
12	38	35
13	41	40
14	44	45
15	47	50
16	50	55

TABLE II—YELLOW PINE REINFORCING STUBS AND ANCHOR LOGS 14 FEET AND SHORTER

[Established weights per lineal foot]

Minimum diameter at small end in inches	Weight
5	12
6	15
7	22
8	30
9	35
10	39
11	47
12	55
13	63
14	72
15	82
16	92

NOTE: The weights in this table are based on treatment with a final retention of 8 pounds of grade 1 creosote oil per cubic foot. For other retentions add to or subtract from the basic weights 1 pound per cubic foot for each 1 pound variation in the retention of preservative specified.

(g) *Lumber.* (1) *Preservative treatment.* (i) The established weight in the applicable ceiling price regulation for untreated lumber (rough green or surfaced green), may be increased by adding 50 pounds per MFBM for each pound retention per cubic foot of creosote, creosote mixture or oil mixture treatment.

(ii) For salt treatment 900 pounds per MFBM may be added to rough or surfaced green weights, when shipped wet from retort. When kiln or air dried after treatment, an addition of 225 pounds per MFBM may be made.

(2) *Fire retardment treatment.* (i) Grade H (5 to 6 pound retention), when shipped wet from the retort 1,500 pounds per MFBM may be added to the rough or surfaced green weights. When kiln or air dried after treatment an addition of 800 pounds per MFBM may be made to the rough or surfaced green weights.

(ii) Grade M (2½ to 3 pounds retention), when shipped wet from the retort 1,200 pounds per MFBM may be added to the rough or surfaced green weights. When kiln or air dried after treatment an addition of 600 pounds per MFBM may be made to the rough or surfaced green weights.

The established weights of treated products not specifically set out in this section are the estimated weights you used for such products during the base period.

SEC. 7. *Ceiling prices for new treaters.* (a) If you are a treater who started business after February 24, 1951, and before the effective date of this regulation, your ceiling prices shall be determined under the provisions of this regulation, except that, insofar as you are concerned, the term "base period" wherever used in this regulation shall refer to the thirty day period, or that part of that period, during which you operated your business immediately preceding the issuance of this regulation. You shall maintain a record of your formula under section 9 of this regulation, and you shall be subject to nonretroactive adjustment by the Office of Price Stabilization.

(b) If you are a treater who starts in business after the effective date of this regulation, you shall file a proposed formula conforming to section 5 (a) with the Forest Products Division, Office of Price Stabilization, Washington 25, D. C. When you file, you must itemize each step of the treating factor for the product treated, including items incident to the actual treatment such as yarding, framing, fabricating, incising, adzing and boring, computed according to monthly, hourly, or piece rate, or a combination of any of these in effect the date the plant started operations; you must also submit a complete range of margins to be employed in determining the ceiling prices of each product or service, as well as three sample estimates showing the application of your formula.

(c) *Quotation of proposed prices.* After an application has been filed under this section, and before action by the Director of Price Stabilization, you may sell your products or services at a price not higher than the ceiling price proposed in your application: Provided, that you agree to, and later, refund to the buyer, the amount, if any, by which your price exceeds the ceiling price established by the Director of Price Stabilization.

(d) *Action by the Director of Price Stabilization.* (1) After receipt of an application made under this section, the Director of Price Stabilization will approve or disapprove your proposed ceiling price, will request additional information about it, or will establish a different ceiling price for the item that is the subject of your application.

(2) If the Director does not notify you to the contrary or request additional information from you within 20 days after the receipt of your application, or within 15 days after the receipt of requested additional information, your proposed ceiling price shall be deemed to have been approved, subject to nonretroactive disapproval or modification at a later time.

(3) Approval of applications by the Director under this section are subject to a finding by the Director that the proposed ceiling prices are in line with the level of ceiling prices otherwise established by this regulation.

SEC. 8. *Adjustable pricing.* Nothing in this regulation shall be construed to prohibit you from making a contract or offer to sell a product or service covered by this regulation at (a) the ceiling price in effect at the time of delivery, or (b) the lower of a fixed price or the ceiling price in effect at the time of delivery. You may not, however, deliver or agree to deliver a product or sell a service covered by this regulation at a price to be adjusted upward in accordance with any increase in a ceiling price after delivery.

SEC. 9. *Records.*—(a) *Base period records.* On and after the effective date of this regulation, for so long as the Defense Production Act of 1950, as amended, shall remain in effect, and for two years thereafter, you shall keep and preserve for examination by representatives of the Office of Price Stabilization, all your existing records relating to your prices for products or services which you contracted to sell at a definite price during the base period, or, if you were not in business during the base period, the period upon which your formula is based. These records shall include all information which would enable the Office of Price Stabilization to compute your raw material, treatment, margin, and transportation factors as set forth in section 5 of this regulation.

(b) *Formula records.* Within 45 days after the effective date of this regulation, you shall have on record in your office, for inspection by authorized representatives of the Office of Price Stabilization, your pricing formulas as determined under section 5 of this regulation. Records of such formulas shall be kept for so long as the Defense Production Act of 1950, as amended, shall remain in effect, and for two years thereafter.

(c) *Current records.* Every person who sells and every person who in the regular course of business buys the products or services covered by this regulation shall make and keep for inspection by representatives of the Office of Price Stabilization for so long as the Defense Production Act of 1950, as amended, shall remain in effect, and for two years thereafter accurate records or invoices of each sale or purchase made after the effective date of this regulation, showing (1) the date of the sale or purchase; (2) the name and address of the seller and purchaser; (3) the price charged or paid; (4) the quantity and description of the products or services sold. In addition thereto, you, the treater, shall also keep and maintain for two years your calculations by which you determine the ceiling price for each product or service sold by you under this regulation.

The retention by a buyer of an invoice furnished by a seller, which includes the factual information required to be made a matter of record by this section, shall be considered as compliance with the provisions of this section.

SEC. 10. *Application for approval of new formulas or factors.* (a) If you are a treater who was in business during the base period and who has subsequently installed new equipment or methods requiring new treatment or margin factors, you shall submit your proposed factors to the Office of Price Stabilization, Forest Products Division, Washington 25, D. C., for approval, disapproval or adjustment.

(b) Your application for approval of a new treatment factor shall include (1) the hour or piece rates for similar hand or machine operations generally prevailing in your immediate competitive area during the base period, and (2) an explanation for any variance between such generally prevailing rate and the rate you now wish to apply.

(c) Your application for approval of a new margin factor shall include: (1) the location of your plants; (2) the type of equipment you use; (3) the capacity of your equipment; (4) a list of the products you intend to treat; (5) the range of margins proposed; and (6) a statement of the method you use to determine special differentials.

(d) After an application has been filed under this section, and before action by the Director of Price Stabilization, you may sell your products or services at a price not higher than the ceiling price proposed in your application: *Provided*, that you agree to, and later, refund to the buyer, the amount, if any, by which your price exceeds the ceiling price established by the Director of Price Stabilization.

(e) After receipt of an application made under this section, the Director of Price Stabilization will approve or disapprove your proposed ceiling price, will request additional information about it, or will establish a different ceiling price for the item that is the subject of your application.

(f) If the Director does not notify you to the contrary or request additional information from you within 20 days after the receipt of your application, or within 15 days after the receipt of requested additional information, your proposed ceiling price shall be deemed to have been approved, subject to nonretroactive disapproval or modification at a later time.

(g) Approval of applications by the Director under this section are subject to a finding by the Director that the proposed ceiling prices are in line with the level of ceiling prices otherwise established by this regulation.

SEC. 11. *Interpretations.* If you want an official interpretation of this regulation, you should write to the District Counsel of your local OPS Office. Any action taken by you in reliance upon and in conformity with a written official interpretation will constitute action in good faith pursuant to this regulation. Further information on obtaining official interpretations is contained in Price Procedural Regulation 1, revised.

SEC. 12. *Modification of proposed ceiling prices by the Director of Price Stabilization.* The Director of Price Stabilization at any time may disapprove or reduce ceiling prices reported or proposed under sections 7 and 10 of this regulation so as to bring them into line with the level of ceiling prices otherwise established by this regulation.

SEC. 13. *Prohibitions and violations.* (a) You shall not do any act prohibited or omit to do any act required by this regulation, nor shall you offer, solicit, attempt, or agree to do or omit to do any such acts. Specifically, but not in limitation of the above, you shall not, regardless of any contract or other obligation, sell and no person in the regular course of trade or business shall buy

from you at prices higher than the ceiling prices established by this regulation, and you and buyers from you shall keep, make, and preserve true and accurate records required by this regulation. Prices lower than the ceiling prices may be charged, paid, or offered.

(b) If you violate any provisions of this regulation, you are subject to criminal penalties, enforcement action, and actions for damages.

(c) If any person subject to this regulation fails to prepare or keep any record or file any report required by this regulation in connection with the establishment of his ceiling price, or if any person subject to this regulation fails to establish a ceiling price or apply to the Office of Price Stabilization for the establishment of a ceiling price, if he is required to do so, the Director of Price Stabilization may issue an order fixing his ceiling prices. Any ceiling price fixed in this manner will be in line with ceiling prices generally established by this regulation. The order fixing the ceiling price may apply to all deliveries or transfers completed prior to the date of issuance of the order. The issuance of such an order will not relieve the seller of his obligation to comply with the requirements of this regulation or of the various penalties for failure to do so.

SEC. 14. *Evasions.* Any means or device which results in obtaining indirectly a higher price than is permitted by this regulation, or in concealing or falsely representing information as to which this regulation requires records to be kept, is a violation of this regulation. This prohibition includes, but is not limited to, means or devices making use of commissions, services, cross sales, transportation arrangements, premiums, discounts, special privileges, upgrading, tie-in agreements and trade understandings as well as the omission from records of true data and the inclusion in records of false data.

SEC. 15. *Petitions for amendment.* If you wish to have this regulation amended, you may file a petition for amendment in accordance with the provisions of Price Procedural Regulation No. 1, Revised.

SEC. 16. *Definitions and explanations.* The terms appearing in this regulation, unless the context clearly requires a different meaning, shall be construed as follows:

(a) *Base period.* This term means the period January 25, 1951, to February 24, 1951, inclusive.

(b) *Product.* This term means any item, object, material, article, commodity or supply covered by this regulation and includes the service rendered in connection therewith. Wherever in this regulation the word "product" or "products" is used, it means "product or service, or both" or "products or services, or both".

(e) *Contracted to be sold.* This term means the written or oral acceptance of any written or oral order.

(d) *Treatment.* This terms means the actual treating, and any hand or machine operation incident to the preservative treatment of forest products, such as, but not limited to, yarding, framing, fabricating, kiln-drying, incising, inspection, adzing, and boring.

(e) *Margin.* This term means the selling price f. o. b. shipping point minus the sum of your raw material and treatment factors.

(f) *Most comparable product or service.* This term is defined in section 5.

(g) *Office of Price Stabilization.* This term means the Director of Price Stabilization and also applies to any official (including officials of regional or district offices) to whom the Director of Price Stabilization delegates a function, power or authority referred to in this regulation.

(h) *Person.* This term includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successors or representatives of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions or any agency of the foregoing.

(i) *Purchaser of the same class.* The meaning of this term is determined by reference to your own practice of setting different prices for sales to different purchasers or groups of purchasers. The practice may, but need not be, based on the characteristic or distributive level of the buyer, for example, railroads, wholesalers, contractors, utilities, municipalities, government agencies. It may, but need not, be based on the location of the purchaser or the quantity of the item purchased by him. It may, but need not, be based on differing terms or conditions of sale or delivery. If you have followed the practice of giving an individual customer a price differing from that charged others, that customer is a separate class of purchaser.

(j) *Rate per unit of material.* This term refers to the method adopted by the treater in computing the margin on each product. For example, per item, board feet, linear feet, cubic feet and square yards.

(k) *Raw materials.* This term means untreated forest products and all materials used in the treatment process to produce the finished treated product.

(l) *Records.* This term includes without limitation, books of account, sales lists, sales slips, orders, vouchers, contracts, receipts, invoices, bills of lading, and other papers, documents, letters and correspondence.

(m) *Sell.* This term means sell, supply, dispose, barter, exchange, lease, transfer, and deliver, and contracts and offers to do any of the foregoing. The terms "sale", "sold", "buy", "purchase", and "purchaser", shall be construed accordingly.

(n) *Services.* This term means any service rendered, or supplied, otherwise than as an employee, in connection with the treatment and processing of any of the forest products covered by this regulation.

(o) *Treater.* This term means (1) a person who impregnates forest products with a wood preservative, either by a pressure or non-pressure process; or (2) a person who supplies his own untreated forest products but contracts for the treating service and sells the product in its treated form.

(p) *You.* This term means a treater subject to this regulation.

Effective date. This regulation shall become effective July 16, 1952.

NOTE: The reporting and record keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7791; Filed, July 11, 1952; 4:01 p. m.]

[Ceiling Price Regulation 93, Interpretation 14]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 14—EXEMPTION OF "ONE-MAN SHOP"—SCOPE OF EXEMPTION (SECTION 1 (B))

CPR 93, section 1 (b) as amended, provides that "Neither this regulation, nor any other regulation heretofore or hereafter issued . . . shall apply to the sale of construction services by an individual man or woman who neither employs or uses the construction services of one or more persons nor employs or uses the construction services of one or more subcontractors . . ." Inquiries have been received whether such sellers are exempt only from CPR 93 and still covered under the provisions of CPR 34. Section 1 (b) of CPR 93 provides for complete exemption from price control of sales of construction services by one who meets the requirements of this section and he is, therefore, not only exempt from the provisions of CPR 93 but also from those of CPR 34.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7781; Filed, July 11, 1952; 4:00 p. m.]

[Ceiling Price Regulation 93, Interpretation 16]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 16—EXEMPTION OF "ONE-MAN SHOP"—OCCASIONAL EMPLOYEES (SECTION 1 (B) AS AMENDED)

In the plumbing and heating branch of the construction industry, persons who customarily operate as "one man shops" and thus would be exempt from price control, occasionally utilize one or more employees for varied intervals. During the periods when such occasional employees are engaged the exemption from price control no longer applies, and ceiling prices for work done during such periods must be established under CPR 93.

Where a contract for construction services is entered into at a time when occasional employees are engaged, and thereafter, but before performance is completed, there is a reversion to the "one man shop" status, CPR 93 is no longer applicable. However, this does not have the effect of abrogating any contract already in existence.

On the other hand, where a contract is entered into while the "one man shop" has no occasional employees, and subsequently, before performance is completed, occasional employees are engaged, CPR 93 thereupon becomes applicable, including all applicable reporting and record keeping requirements, and the price provided in the contract must be recomputed to the extent that it is inconsistent with the applicable provisions of the regulation.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7783; Filed, July 11, 1952; 4:00 p. m.]

[Ceiling Price Regulation 93, Interpretation 17]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 17—EXEMPTION OF "ONE-MAN SHOP"—SCOPE OF EXEMPTION (SECTION 1 (b))

Where a partnership of two or more individuals is engaged in a construction business, even though it has no employees or subcontractors, and all construction work is done by one or more members of the partnership, such operations are covered by CPR 93, since it is not a "one-man shop."

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7784; Filed, July 11, 1952; 4:00 p. m.]

[Ceiling Price Regulation 93, Interpretation 18]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 18—CONTINUED USE OF CPR 34 PRICES (SECTION 5)

Section 5 (a) of CPR 93 permits a seller of construction services to continue to determine his ceiling prices for sales of those services under CPR 34 if his (higher) ceiling prices have been properly reported pursuant to CPR 34. A seller who desires to continue to use prices determined under CPR 34, must, among other things:

(a) Have filed the appropriate reports of CPR 34 ceiling prices with the proper district office of OPS.

(b) Have filed reports required by CPR 34 on or before the dates required by that regulation and before November 20, 1951 the effective date of CPR 93, for construction services which he desires to continue pricing under CPR 34. Unless the reports were filed prior to the applicable date, the seller may not retain his ceiling prices for such construction services under CPR 34.

(c) Have filed the reports required by section 32 of CPR 93. A seller who under section 5 of CPR 93 is accorded a right to continue pricing some construction services under CPR 34 may subsequently change to CPR 93 ceiling prices for such services. However, once he has put into effect prices under CPR 93 for such services he may not subsequently revert back to CPR 34 ceiling prices.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7785; Filed, July 11, 1952; 4:01 p. m.]

[Ceiling Price Regulation 93, Interpretation 20]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 20—DISTINCTION BETWEEN LUMP-SUM CONTRACTS AND INSTALLED SALES (SECTIONS 12 AND 22)

Questions have been raised as to how to distinguish lump-sum contracts, which are subject to section 12, from installed sales, which are subject to section 22 (a) or installed sales subject to section 22 (c).

Installed sales may be made on the basis of any of the methods prescribed in section 22, including section 22 (a), which is an installed sale on a lump-sum basis. There is no difference in the pricing method between a lump-sum contract as defined in section 12 and an installed sale on a lump-sum basis defined in section 22 (a). The differentiation between installed sales generally and the other types of transactions covered by CPR 93 is that an installed sale is primarily the sale of a commodity which becomes an integral part of the structure, such as a furnace or hot water heater together with the services required to install that commodity.

Installed sales subject to section 22 (c) are distinguished from lump-sum contracts and installed sales subject to section 22 (a) in that the price is not separately formulated for each sale and will consequently represent a generally offered or advertised price for a certain commodity on an installed basis.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7787; Filed, July 11, 1952; 4:01 p. m.]

[Ceiling Price Regulation 93, Interpretation 19]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 19—CONTRACTS IN PROGRESS ON NOVEMBER 20, 1951 (SECTION 5 (a) AND (c))

Section 5 (c) specifically provides that, with respect to jobs which were in progress on the effective date of CPR 93, sellers with ceiling prices established in accordance with CPR 34 are not required to change contract prices to comply with ceiling prices determined under CPR 93. The purpose of this provision is to make it clear that where a job is in progress pursuant to a contract, the seller is not required to change his prices and, in effect, change the contract. The seller may, however, change his prices to comply with CPR 93 prices if the other contracting parties agree. In other words the regulation does not contemplate overriding preexisting contractual obligations. Modification of an existing contract, in order to conform to ceiling prices under CPR 93, is conditioned upon the voluntary relinquishment of prior contractual rights.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7786; Filed, July 11, 1952; 4:01 p. m.]

[Ceiling Price Regulation 93, Interpretation 21]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 21—TRADE ASSOCIATION DUES—RECOVERY IN HOURLY RATE (SECTIONS 20 (b) (2), 21 AND 45 (a) (12))

OPS has received inquiries from persons who supply construction services on a time and materials or hourly rate basis as to whether trade association dues paid by sellers may be recovered as part of their hourly costs.

Such sellers compute ceiling prices by adding together their ceiling hourly charges for labor, ceiling charges for materials, expended, and ceiling charges for the use of construction equipment.

Trade association dues may not be included in the ceiling hourly charges for labor. Hourly charges for labor are determined by adding together current wage rates, payroll costs, and the dollars and cents margin between labor hourly costs during the base period and current labor hourly costs. Payroll costs, an element in hourly costs, are defined in section 20 (b) (2) and section 45 (a) (12) as follows: "Payroll taxes; cost of pension and insurance plans; and premiums for compensation, labor, and other re-required insurance based upon your payroll; but do not include association dues even if based upon your payroll." It is thus expressly provided that trade association dues may not be included in payroll costs.

CPR 93 contemplates that the seller on a time and materials or hourly rate basis may recover the same dollars and cents margin over hourly costs that he recovered during the base period. If trade association dues were included in this margin during the base period they would at the present time be included in his current margin. To the extent, however, that these dues have increased, under CPR 93 he must now absorb any increases of these dues in his margin.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7788; Filed, July 11, 1952; 4:01 p. m.]

[Ceiling Price Regulation 93, Interpretation 22]

CPR 93—CONSTRUCTION AND RELATED SERVICES AND SALES OF INSTALLED MATERIALS

INT. 22—REPORTING REQUIREMENT FOR INSTALLED SALES (SECTION 22)

Sales which are subject to the provisions of section 22 (a) or 22 (b) do not require a report under section 32. Only those installed sales subject to the provisions of section 22 (c) need be reported on Form 103.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7789; Filed, July 11, 1952; 4:01 p. m.]

[Ceiling Price Regulation 98, Amdt. 4]

CPR 98—RESELLERS OF IRON AND STEEL PRODUCTS

CEILING PRICES OF NEW STEEL PRODUCTS WHICH HAVE NOT BEEN WAREHOUSED

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 4 to Ceiling Price Regulation 98, is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment is designed to permit certain warehouse resellers of iron and steel products to charge their customary warehouse price for steel products under CPR 98 during the present steel strike even though as a result of the strike they are unable to perform completely the required warehousing operations.

A number of major steel producers distribute part of their output through their own distributive channels, and have organized separate warehousing outlets for this purpose. These warehousing outlets are subject to CPR 98 and under that regulation they are permitted a warehouse reseller's markup provided they perform certain steel warehousing operations. The steel strike has extended not only to the steel producers, but also to those warehousing outlets affiliated with them, thus making it impossible to perform some of these warehouse resellers functions.

Carload quantities of steel products that were in transit when the strike began are now on railroad sidings and in various yards. Consumers have expressed great need for the steel available. These consumers would ordinarily pay the warehouse price, and, requiring warehouse resellers to sell at mill price would upset their customary and historical price relations during this interim strike period.

In these emergency circumstances it is considered advisable to permit such warehouse resellers to charge their markup permitted under CPR 98 during the strike period even though the warehouse function is not fully performed.

In view of the emergency nature of this amendment, special circumstances have rendered consultation with industry representatives, including trade association representatives, impracticable.

AMENDATORY PROVISIONS

Ceiling Price Regulation 98 is amended in the following respect:

1. Section 16 (c) is amended to read as follows:

(c) *Emergency exceptions.* (1) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the Director of Price Stabilization may grant permission, upon application, to any warehouse reseller to charge ceiling prices determined in accordance with this regulation for new steel products which have not been put through the operations commonly known as the warehousing of iron or steel products where it is shown that all of the special circumstances set forth in subparagraphs (2) or (3) of this paragraph are present and that they are not being used as a means of circumventing the limitations of this regulation.

(2) In order to apply under this subparagraph, you must meet all of the following requirements:

(i) You propose to make delivery of new steel products from stock which you have stored at premises regularly maintained and operated for such storage by any person other than a producer or holder of excess stock.

(ii) Emergency circumstances do not permit you to receive and store material at premises which you regularly maintain and operate for the warehousing of iron or steel products.

(3) In order to apply under this subparagraph, you must meet all of the following requirements:

(i) You must be involved in a labor dispute, resulting in a strike by the employees at your warehouse;

(ii) The strike arising from the labor dispute must be in progress at the time you propose to charge ceiling prices determined in accordance with the regulation;

(iii) The new steel products for which you propose to charge ceiling prices determined in accordance with this regulation must be located at your railroad siding or must have been shipped to you and have been in transit between the mill and your warehouse before the beginning of the strike.

(4) Your signed application under this paragraph must be directed either by letter or telegram to the appropriate OPS office and must contain the following information:

(i) Your name and address and the name and location of your regularly maintained warehouse;

(ii) The name and address of the warehouse, if any, which you propose to use during the emergency;

(iii) A description of the emergency circumstances under subparagraphs (2) or (3), as the case may be, which make it impossible for you to put the material through your regularly established warehouse and a statement as to their expected duration, where you are applying under subparagraph (2).

(5) After receipt of your application the Director may grant or deny permission to charge a warehouse markup or request further information. Pending any such action, you may sell at a ceiling price determined in accordance with the provisions applicable to sales out of warehoused stock, provided that you agree with the purchaser to refund the amount, if any, by which such price exceeds the ceiling price applicable to sales of such material which have not been put through the warehousing operations should the Director deny your application. The Director will not grant such authorization, where the facilities you propose to use are outside of the trade area normally served by your regularly maintained warehouse or warehouses at which the emergency exists. The Director may revoke the permission granted hereunder when he finds that circumstances have so changed as to warrant such action.

Effective date. This amendment to Ceiling Price Regulation 98 shall become effective July 9, 1952.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

NOTE: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 9, 1952.

[F. R. Doc. 52-7670; Filed, July 9, 1952; 4:40 p. m.]

[General Ceiling Price Regulation, Supplementary Regulation 99, Interpretation 1]

GCPR, SR 99—ADJUSTED CEILING PRICES FOR MANUFACTURERS OF CERTAIN GLASS CONTAINERS

INT. 1—APPLICABILITY OF CEILING PRICE INCREASES TO DECORATED AND UNDECORATED GLASS CONTAINERS, AND TO SHIPPING CARTONS (SECTION 3)

It appears that prior to January 26, 1951, and since that date, certain glass container manufacturers delivered decorated or undecorated glass containers,

as ordered by their customers. Also, it was the base period practice and is the practice now of manufacturers of decorated and undecorated glass containers to package them in shipping cartons for delivery to purchasers. In some instances such shipping cartons were designed for local delivery of the bottles only. In other instances, the bottles were shipped in so-called "reshipping" cartons. These were used by the bottlers to ship their products after bottling was complete. In each instance a single price was quoted by the manufacturers, which included the glass containers, as ordered, and the particular type of shipping carton involved.

The question has now been raised whether in the case of decorated bottles the permissible 4 percent increase under SR 99 to the GCPR is 4 percent over the GCPR ceiling price of decorated or of undecorated bottles.

The question has also been raised whether the permissible 4 percent increase may be applied to the lump sum GCPR ceiling price which included the shipping carton or whether it must be applied to such ceiling price reduced by an appropriate amount to reflect the price of the particular carton.

The Statement of Considerations to SR 99 declares: "This regulation provides a uniform industry adjustment of 4 percent over GCPR ceilings for manufactured glass containers." Section 3 of SR 99 provides that the ceiling price of such manufacturers for the sale of any commodity manufactured by them and covered by the Supplementary Regulation shall be their GCPR ceiling price for such commodity, increased by 4 percent.

(1) Where the commodity sold is a decorated bottle and the manufacturer has a specific GCPR ceiling price for decorated bottles, he may apply the 4 percent increase to his GCPR ceiling price for that commodity. The application of decoration is considered as a part of the manufacturing process of the finished commodity.

(2) Similarly, where shipping cartons were furnished by the manufacturer as part of the unit price of the commodity, without a separately stated charge for the carton, the manufacturer's GCPR ceiling price covered the glass containers packed in shipping cartons as ordered by the customer. This would be true even though one price was quoted for glass containers in local delivery type cartons, and another price for containers in so-called "re-shipping" cartons. The increase permitted by SR 99 therefore applies to the lump sum ceiling price for the glass containers packed in shipping cartons as ordered by the customer.

Any contrary conclusion would defeat the expressed purpose of SR 99, as indicated in its Statement of Considerations.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154.)

HERBERT N. MALETZ,
Chief Counsel,
Office of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7792; Filed, July 11, 1952; 4:01 p. m.]

[General Overriding Regulation 8, Amdt. 5]

GOR 8—PAPER, PAPERBOARD, CONVERTED PAPER AND PAPERBOARD PRODUCTS, ALLIED PRODUCTS AND SERVICES

EXEMPTION OF SALES OF PAPER GARMENT PATTERNS AND PATTERN TRANSFERS

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161, and Economic Stabilization Agency General Order No. 2, this Amendment 5 to General Overriding Regulation 8 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment exempts from all price control the sales of paper garment patterns and pattern transfers.

Paper garment patterns and pattern transfers are copyrighted material consisting of printed and perforated instruction sheets of paper accompanied by printed assembly charts, all of which are enclosed in an envelope upon which is printed additional description and instructive matter. The paper garment pattern sheets and instruction sheets provide complete information for the making of the particular garment. The pattern transfers provide the same information with respect to accessories plus a paper sheet printed with a wax material for outlining embroidery or decorative designs on the accessories.

The production of paper garment patterns and pattern transfers calls for a highly specialized combination of creation, design and printing. Each of the seven firms constituting the Pattern Industry, which sells from 80 percent to 90 percent of all patterns sold in the United States (the other being sold through newspapers), produces on an average 35 new patterns a month. Although the creation and designing in the paper pattern industry is more a matter of statistics based on historic style trends than a matter of inspiration, pricing in this field is purely a matter of judgment and the usual technique of in-line pricing or pricing based on the costs of a comparable product are not applicable.

Sales of paper garment patterns and pattern transfers are closely connected with the magazines that feature the patterns. The magazines play the paramount part in the sale of the patterns and retail stores do not promote patterns primarily to sell materials but sell patterns as a service feature. The price of paper garment patterns and transfer patterns ranges from 15 cents to $2.50, with the overwhelming majority being priced under $1.00. These prices have been stable over a long period of time and it is not anticipated that exemption from price control will result in price increases to the consumer.

The exemption of paper garment patterns and pattern transfers cannot materially affect the cost of living nor add to the cost of the defense effort. Moreover, the nature of the product is such that the establishment of control would present administrative and enforcement difficulties for the Office of Price Stabilization out of all proportion to any possible gain from a stabilization viewpoint.

On the above-indicated grounds, it has therefore been determined that the sale of paper garment patterns and pattern transfers should be exempt from price control.

Accordingly, in consideration of the above facts, the Director of Price Stabilization finds that Amendment 5 to General Overriding Regulation 8 is generally fair and equitable and in his opinion is necessary to effectuate the purposes of the Defense Production Act of 1950, as amended. In the formulation of this regulation there has been consultation with industry representatives, including trade association representatives, to the extent practicable, and consideration has been given to their recommendations.

AMENDATORY PROVISIONS

1. Subparagraph (2) of section 1 (a) of General Overriding Regulation 8 is amended to read as follows:

(2) Sales of commodities whose primary value depends upon editorial content, expression of ideas or dissemination of information and the rates, fees, charges, or compensation for the services of printing, publishing, typesetting, platemaking, binding, or related services in connection with such commodities, including, but not limited to, books, magazines, periodicals, newspapers, material furnished for publication by any press association or feature service, pamphlets, leaflets, sheet music, music rolls, stamp albums, globes, maps, charts, catalogs, directories, programs, house organs, menus, advertising matter printed on paper (except such articles as containers, labels, and book matches, not including special reproduction book matches and the packaging thereof, the form of which serves a purpose other than that of advertising) time tables, tariffs, price lists, and paper garment patterns and pattern transfers.

2. Section 2 (a) is amended by the addition of subparagraph (7) which reads as follows:

(7) Paper garment patterns and pattern transfers involve copyrighted material and consist of printed or perforated instruction sheets of paper, some printed with a wax material for outlining embroidery or decorative designs on accessories, accompanied by printed assembly charts. Each of these patterns is enclosed in an envelope upon which is printed additional descriptions and instructive material.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective July 16, 1952.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 11, 1952.

[F. R. Doc. 52-7779; Filed, July 11, 1952; 10:44 a. m.]

Chapter XVI—Production and Marketing Administration, Department of Agriculture

[Defense Food Order 3, Sub-Order 3]

DFO–3—Agricultural Imports

SO 3—Statement of policies and procedures re import authorizations for certain commodities

Sub-Order 3 containing a statement of the policies and procedures relating to import authorizations for certain commodities under Defense Food Order 3, as amended (17 F. R. 6088) is hereby issued pursuant to the authority vested in me by said Defense Food Order 3, under sections 101, 104 and 704 of the Defense Production Act of 1950, as amended (64 Stat. 798, 65 Stat. 131, Pub. Law 429, 82d Cong., 50 U. S. C. App. Sup. 2061 et seq.)

The Defense Production Act of 1950, as amended, was extended in effect on June 30, 1952. Defense Food Order No. 3 was amended on July 3, 1952 to effectuate the determinations under the act and to impose the import controls contemplated by the act. This Sub-Order 3 under the order must be issued promptly in order to inform affected persons as soon as possible concerning the policies and procedures relating to import authorizations under the order. This Sub-Order affects several segments of the economy and time is not available to permit consultation with all affected segments. Accordingly, consultation with industry representatives has been held only where feasible in the limited time available.

Sub-Order 3 under Defense Food Order 3, is hereby issued to read as follows:

Sec.
1. Policy statement re import authorizations.
2. Procedure re applications.
3. Procedure re use of authorizations.
4. Definitions.

Authority: Secs. 1 to 4 issued under sec. 704, 64 Stat. 816, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply secs. 101 and 104, 64 Stat. 799, Pub. Law 429, 82d Cong.; 50 U. S. C. App. Sup. 2071, 2074.

Section 1. *Policy statement re import authorizations*—(a) *Malted milk and compounds, or mixtures of or substitutes for milk or cream.* Authorizations will be granted for the importation of malted milk and compounds, or mixtures of or substitutes for milk or cream, which are determined by the Director to have none of the customary uses of butter. Applications for authorization to import any such product must be accompanied by a complete description of the product including its butterfat content and intended end-use or uses.

(b) *Casein or lactarene, and mixtures in chief value thereof, n. s. p. f.* Import authorizations will be issued for casein or lacterene, and mixtures in chief value thereof, n. s. p. f., as follows:

(1) Any importer who is desirous of securing import authorization for any such product and who imported such product during the base period July 1, 1950, through June 30, 1951, must, if he has not already done so, submit documentary evidence satisfactory to the Director showing imports of the product through customs made in his own name as the importer of record during the specified base period. The total quota for such products will be apportioned among individual importers on the basis of the proportion of total imports of such products which was imported in the base period by each importer and such other factors as must be considered to avoid inequities. Initial authorizations will be issued to each eligible importer, authorizing him to import an amount equal to his proportionate share of approximately one-third of the total annual quota. Subsequent authorizations will be issued in accordance with the same general policy to the extent that such policy is consistent with any revisions that may be made in Defense Food Order 3 or determinations under the Defense Production Act, as amended.

(2) Authorizations totaling not in excess of 100,000 pounds will be granted for the importation of these products prior to July 1, 1953 to small independent enterprises which are in the business of importing dairy products other than the one for which authorization is desired and which have not received any import authorization under subparagraph (1) of this paragraph. The amount authorized for any applicant under this subparagraph will not exceed 1,000 pounds. Applications for authorization under this subparagraph must state the product to be imported and must include a statement concerning the size and nature of the applicant's business enterprise.

(c) *Cheese.* Import authorizations will be issued for cheese as follows:

(1) Any importer who is desirous of securing import authorization for any type of cheese subject to control and who imported such cheese between January 1, 1948 and August 8, 1951, inclusive, must, if he has not already done so, submit documentary evidence satisfactory to the Director showing by country of origin the imports of such cheese through customs made in his own name as the importer of record during the period January 1, 1948 through December 31, 1950, or, if he did not import during such period, during the period January 1, 1951 through August 8, 1951. The total quota for each type of cheese subject to control will be apportioned among individual importers on the basis of the proportion of total imports in the 1950 calendar year which was imported by each importer, with allowances for any greater proportion which the importer may have imported during the two-year period 1949–1950 or the three year period 1948–1950, and such other factors as must be considered to avoid inequities. In the case of importers who did not begin importing cheese until after December 31, 1950, their imports during the period January 1, 1951 through August 8, 1951 will be treated as if they had occurred in 1950. Initial authorizations will be issued to each eligible importer, authorizing him to import an amount of each particular type of cheese equal to his proportionate share of approximately one-third of the total annual quota for such type. Subsequent authorizations will be issued in accordance with the same general policy to the extent that such policy is consistent with any revisions that may be made in Defense Food Order 3 or determinations under the Defense Production Act, as amended. Authorizations issued to any applicant in accordance with this subparagraph will specify the quantities which may be imported from each particular country of origin, and such quantities will be based upon the proportionate quantities imported by the applicant from such country during the relevant period prescribed in this subparagraph.

(2) Authorizations totaling not in excess of 100,000 pounds will be granted for importation of cheese from particular countries prior to July 1, 1953, to small independent enterprises which are in the business of importing dairy products other than cheese and which have not received any import authorizations under subparagraph (1) of this paragraph. The amount authorized for any applicant under this subparagraph will not exceed 1,000 pounds. Applications for authorization under this subparagraph must state the country from which the applicant intends to import the cheese and the type of cheese to be imported and must include a statement concerning the size and nature of his business enterprise.

(3) In the administration of this Sub-Order, each of the following classifications is considered to be a type of cheese:

Description	Commerce import class No.
Italian	0046.010 through 0046.250 and 0046.940.
Cheddar	0046.490.
Blue-Mold	0046.600.
Edam and Gouda	0046.750 and 0046.760.
Cheese containing, or processed in whole or in part from, Cheddar, Blue-Mold, Edam or Gouda.	0046.990.

(d) *Brewers rice.* Import authorizations will be issued as follows: Brewers rice shall be that broken rice which will pass readily through a metal sieve perforated with round holes five and one-half sixty-fourths of an inch in diameter. Authorizations will be granted for the importation thereof for domestic consumption upon the submission of evidence satisfactory to the Director that the applicant has a firm offer for the sale of a specified quantity of brewers rice for shipment to the United States within 90 days after the date of the offer. No authorization will be valid for more than 30 days after issuance unless during the period the authorization-holder submits evidence satisfactory to the Director that the brewers rice is under a firm purchase contract for shipment to the United States within 90 days after the date of the issuance of the authorization. No authorization will be issued for an amount in excess of the amount requested and actually covered by the firm offer and in no event in excess of 2,500 metric tons. Subsequent authorizations will be issued to the same applicant only after evidence satisfactory to the Director has been submitted to show that the previously authorized amount has been shipped.

(e) *Registered or certified flaxseed and rice seed for planting purposes.* Any importer who is desirous of securing import authorizations for importation of registered or certified flaxseed and rice seed, for planting purposes only, may make application to the Director. Authorizations will be granted to such importers upon receipt by the Director of satisfactory evidence that the flaxseed and rice seed are registered or certified and comply with applicable laws and regulations and will be used for planting purposes only.

(f) *Small plants.* Import authorizations for the commodities specified in paragraphs (a) through (e) of this section will be issued to small plants as required by section 714 of the Defense Production Act, as amended.

SEC. 2. *Procedure re applications.* (a) Applications for import authorizations for any of the products covered by this Sub-Order may be filed with the Director, Office of Requirements and Allocations, Production and Marketing Administration, U. S. Department of Agriculture, Washington 25, D. C. The application shall specify the point or points-of-entry through which it is desired to import the commodity covered by the application. If two or more points-of-entry are specified, the application should state the commodities and quantities thereof it is desired to import through each such point-of-entry.

(b) (1) The evidence required by section 1 (b) (1) for casein or lactarene, and mixtures in chief value thereof, or by section 1 (c) (1) for cheese, should be submitted as a part of applications for import authorization for such products under such subparagraphs, as follows: The applicant must submit a summary statement of his importations during the period specified in section 1 (b) (1) or (c) (1), as the case may be, of the particular product for which authorization is desired. This statement must show the following for each entry: The customhouse entry number, port of entry, date of entry, country of origin, name of steamer on arrival, and the quantity in net pounds, exclusive of the weight of the containers. In addition, summary statements listing importations of cheese must show the type of cheese that was imported. The applicant must sign the summary statement including a statement that is correct to the best of his knowledge and belief. A customhouse broker should also sign the summary statement, including a statement that the imports specified were made in the name of the applicant as the importer of record or by the customhouse broker for the account of the applicant. If such a certification is not obtained from a customhouse broker, other evidence concerning the applicant's importations must be submitted. The customs entry with receipt for duty paid will be acceptable for this purpose. If the customs entry and receipt are unavailable, the applicant may submit the consular or commercial invoice, his copies of the letters of credit and bills of lading, and his cancelled checks covering payments for the products involved, or other documentary evidence. These documents will be returned to the applicant.

(2) It will be unnecessary for importers who applied for authorizations to import cheese or casein or lactarene and mixtures in chief value thereof, n. s. p. f., during the period August 9, 1951–June 30, 1952, and who have furnished the evidence required by this paragraph, to do so again unless specifically requested by the Director.

SEC. 3. *Procedure re use of authorizations.* (a) Import authorizations will specify the point-of-entry through which importation is authorized. A "Customs Copy" of each import authorization will be sent by the Director to the Collector of Customs at the point-of-entry stated on the authorization. This copy of the authorization will be retained by the Collector to whom sent, unless otherwise requested by the Director.

(b) Importation may be made only at a point-of-entry within the jurisdiction of the Collector of Customs holding the "Customs Copy" of the import authorization, except that, upon prior notice to the Director by the person to whom the authorization was issued, arrangements will be made by the Director for importation at another point-of-entry.

(c) The Collector of Customs will record each importation in the spaces provided therefor on the reverse side of the "Customs Copy" of the import authorization and will not permit the importation of any quantity in excess of the authorized quantity.

SEC. 4. *Definitions.* Terms used in this Sub-Order shall have the same meaning as when used in Defense Food Order 3, as amended.

The purpose of this Sub-Order is to state the current policies and procedures relating to the issuance of authorizations for importation of certain commodities under Defense Food Order 3, as amended.

This Sub-Order shall be effective immediately and shall supersede Sub-Order 1, as amended (16 F. R. 7936, 8273) and Sub-Order 2, as amended (16 F. R. 11602), under Defense Food Order 3, as amended.

NOTE: All reporting requirements of DFO–3, Sub-Order 3, have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 9th day of July 1952, effective immediately.

[SEAL] MARTIN SORKIN,
Acting Director, Office of Requirements and Allocations.

[F. R. Doc. 52–7796; Filed, July 11, 1952; 11:58 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

PART 251—LAND USES

SPECIAL USE PERMITS; RIGHTS-OF-WAY FOR ELECTRIC POWER TRANSMISSION LINES

By virtue of the authority vested in the Secretary of Agriculture by the act of June 4, 1897 (30 Stat. 35, 16 U. S. C. 551); the act of February 1, 1905 (33 Stat. 628, 16 U. S. C. 472), and the act of March 4, 1911 (36 Stat. 1253, 16 U. S. C. 523), as amended by the act of May 27, 1952 (Pub. Law 367, 82d Cong., 2d Sess., 66 Stat. 95), the following amendments to Title 36, Chapter II, Part 251, Code of Federal Regulations are promulgated, effective immediately:

1. Section 251.1 (c) (3) (Reg. U–10 (c) (3)) is amended to read:

(3) Easements for rights-of-way for poles and lines, including telephone and telegraph lines, for communication purposes, and for radio, television, and other forms of communication transmitting relay, and receiving structures and facilities, under the provisions of the act of March 4, 1911 (36 Stat. 1253, 16 U. S. C. 523), as amended by the act of May 27, 1952 (Pub. Law 367, 82d Cong., 2d Sess., 66 Stat. 95), subject to such payments as may be equitable and to such stipulations as may be required for the protection and administration of the national forests.

2. Section 251.50 (a) (Reg. E–1 (a)) is amended to read:

(a) "Act" means the act of March 4, 1911 (36 Stat. 1253, 16 U. S. C. 523), as amended by the act of May 27, 1952 (Pub. Law 367, 82d Cong., 2d Sess., 66 Stat. 95).

3. Section 251.50 (f) (Reg. E–1 (f)) is amended by striking the word and figure "twenty (20)" and substituting the words and figure "two hundred (200)".

4. In § 251.55 (b) (Reg. E–6 (b)) the headnote and that portion of the paragraph preceding subparagraph (1) is amended to read:

(b) *Location map.* A location map, original on tracing linen and four (4) prints conforming to the following:

(30 Stat. 35, as amended; 16 U. S. C. 551)

Issued this 8th day of June 1952.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 52–7633; Filed, July 11, 1952; 8:49 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter B—Carriers by Motor Vehicle

PART 165a—CERTIFICATES AND PERMITS

MOTOR-CARRIER OPERATIONS INVOLVING TRAVERSAL STATES

EDITORIAL NOTE: Federal Register Document 52–7369, appearing at page 6047 of the issue for Friday, July 4, 1952, has been corrected to include the following paragraph:

It is further ordered, That this order shall become effective on August 8, 1952, and thereafter shall remain in effect until it is further ordered by the Commission.

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Parts 904, 934, 947, 996, 999]

[Docket Nos. AO-14-A21; AO-83-A17; AO-203-A3; AO-204-A3; AO-113-A14-A11 RO]

HANDLING OF MILK IN GREATER BOSTON, LOWELL-LAWRENCE, SPRINGFIELD, WORCESTER, AND FALL RIVER, MASS., MARKETING AREAS

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTION THERETO WITH RESPECT TO PROPOSED MARKETING AGREEMENTS AND PROPOSED ORDERS AMENDING THE ORDERS, AS NOW IN EFFECT

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed marketing agreements and proposed amendments to the orders, as now in effect, regulating the handling of milk in the Greater Boston, Lowell-Lawrence, Springfield, Worcester, and Fall River, Massachusetts, marketing areas.

Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after the publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing, on the record of which the proposed marketing agreements and the proposed orders were formulated was called by the Production and Marketing Administration, United States Department of Agriculture and opened in Barre, Vermont, on January 28; West Springfield, Massachusetts, on January 29; and in Boston on January 30 through February 1, 1952, pursuant to a notice duly published in the FEDERAL REGISTER (17 F. R. 91). This hearing was reopened to receive additional evidence on certain proposals at Boston, Massachusetts, May 12–15, 1952, pursuant to a notice published March 8, 1952 (17 F. R. 2063) and a revised notice published May 2, 1952 (17 F. R. 3888).

The material issues considered at the January 28–February 1 hearing on which recommendations are being made at this time and the issues raised at the May 12–15 hearing are concerned with the following:

1. The level and basis of pricing Class I milk in all five markets.

2. Proposals relating to handlers' obligations with respect to members of cooperative associations of producers in all five markets.

3. Modification of the classification provisions with reference to second transfers of milk between certain plants under Springfield, Worcester, and Lowell-Lawrence orders.

4. Extension of the zone differentials under the Boston order to reflect additional mileage distances.

5. Revision of the Boston and Worcester orders with respect to the classification of inter-market transfers of fluid milk products.

6. Modification of the nearby differential provisions of the Worcester order.

The following findings and conclusions are based upon the evidence introduced at the hearing including the reopened hearing and the record thereof.

1. *Class I price.* The principal issue at the January-February hearing and at the reopened hearing dealt with the current level of Class I prices in each of the five Massachusetts Federal order markets in relation to the standards for establishing prices set forth in the Agricultural Marketing Agreement Act and the selection of certain automatic adjustment factors which would modify such Class I prices in the future in accordance with changed circumstances. It is concluded that the Class I prices in each of these orders be related to a "New England basic Class I formula" price. The basic formula price should be determined by combining indexes of wholesale commodity prices, New England disposable income and a feed grain-farm wage rate index all related to a 1951 base and by applying to such basic formula price certain percentage adjustments to reflect above or below normal supplies of milk relative to Class I sales and a schedule of seasonal prices. The resultant price should continue to be expressed in intervals of 22-cent price change.

The Class I price in each of these Massachusetts markets is determined currently by a formula method which was adopted initially as a part of the Boston order, April 1, 1948. On the basis of the hearing record of January 28–February 1, certain changes in the formula were recommended and subsequently amendments carrying out those recommendations became effective April 1, 1952. By these amendments the formula was revised to make use of currently published indexes of wholesale prices and per capita disposable income in New England and the schedule of prices related to the index factors was adjusted to the current price level. The evidence presented at the May 12–15 hearing confirms the findings on the previous record that certain revisions should be made in the indexes used in the basic formula and that the current basic price level should be continued subject to changes in the relationship of milk receipts from producers to the total Class I sales.

The most important revision to the pricing formula recommended at this time is a proposed method of increasing or decreasing the formula Class I price according to a schedule which indicates whether the current supply relative to Class I sales is above or below normal. To measure the percentage of normal supply, the formula would make use of the latest published data on receipts from producers and Class I sales in the Federal order markets of Boston, Lowell-Lawrence, Springfield, and Worcester, Massachusetts. The orders regulating the handling of milk in each of these markets are generally similar in that they provide for market-wide pools and encourage handlers to operate their plants in the pool on a year round basis. The combined utilization of milk in these four markets represents a substantial part of the Class I sales in Massachusetts and the receipts from producers to supply those sales. Therefore, the ratio of the combined receipts to the combined sales should provide a good measure of the adequacy of the supply of milk in the region.

The exact figure at which the supply should be regarded as normal cannot be determined with pinpoint accuracy. There are a number of variables which affect both the supply of milk and the Class I sales so that any estimate of prospective requirements measured from even the most recent data available is subject to some degree of error. The evidence indicated that handlers who have city distributing business and who also receive milk at country plants consider it is necessary to have from 13 to 14 percent more milk in November than they utilize in Class I sales. This reserve is calculated to be necessary to allow for the daily variation in producer receipts and in Class I sales. The reserve estimate was made on the assumption that some inventory would be carried along to meet the usual weekly peak of daily sales. Other estimates of the margin of reserve necessary to supply Class I sales during the shortest supply month ranged as high as 20 percent. Most witnesses indicated that about 18 percent reserve is needed during November in order to be assured of having an adequate supply at all times. Because of the highly variable conditions of supply, it appears desirable to establish a goal which represents an ample rather than a scanty margin of reserve for Class I sales. It is concluded therefore that the optimum supply relative to sales should be established on the generous side with graduated price adjustments designed to direct the supply within that normal range. The normal supply relative to Class I sales for the four markets can be expressed according to this record in terms of 80 to 84 percent Class I during the month of November.

In order to relate percentages of Class I in other months of the year to the November standard, the normal pattern of seasonal variation in producer receipts and Class I sales for the four

markets must be recognized. A schedule of normal Class I percentages equivalent to 82 percent Class I in November should be used as the basis for measuring deviations from the normal during the most recent two months for which data are available. The record indicates that a two month average is more stable than a one month average and any longer period of time increases the necessary lag in the data used without adding appreciably to the accuracy of the prediction from such data.

The price adjustments for deviations from normal supply should amount to about a 2 percent price change for each change from the normal November Class I percent of 2 percentage points when the percent of normal supply (receipts divided by sales) varies from 95 to 105 percent. The 2 percent price adjustments should be related to a smaller change in the normal supply when the supply is outside this middle range. The schedule of price adjustments should extend to a 12 percent plus adjustment when the normal supply is 91½ percent or under and to a minus 12 percent when the supply is 112 percent or more of the normal rate. If the supply moves outside these limits or remains for any period of time in the outer adjustment brackets, the schedule of adjustments and the basic price should be reconsidered at a hearing.

The evidence at the hearing indicated that the seasonal adjustments to the price should be made in terms of percent to reflect changes in the price level, rather than in fixed amounts; and that the adjustments should be graduated over a wider seasonal range with less abrupt changes from month to month. The revised seasonal price schedule is designed to encourage producers to deliver a larger share of their annual milk production during the period from September through February.

The record indicates that price adjustments should be effected as soon as any of the various formula factors indicate the need for a price change. However, representatives of producers, handlers, and state milk control agencies testified at the hearing that they favored retarding price adjustments until their accumulated effect would bring about a change of 22 cents in the Class I price. Class I price changes in New England markets have been made in multiples of 20 or 22 cents for several years and the industry has become accustomed to such adjustments. Although the record indicates that such bracketed price adjustments have in the past brought about too late and too abrupt price changes, several revisions proposed in the pricing formula at this time reduce the lag and the precipitous effect of the price adjustments. The effect of the bracketed price changes on the operation of the revised formula may not seriously retard the necessary adjustments. It is concluded, therefore, that the pricing should be continued at this time on the basis of bracketed 22-cent price changes.

Certain witnesses at the May 12–15 hearing proposed that the formula indexes be related to 1950 as a base period and that a base price of $5.36 be constructed. If the New England disposable income factor had been used in the pricing formula in 1950, the price would have averaged for the year $4.92 instead of the actual average of $5.14. The witnesses who supported the substitution of the disposable income factor for the previously used department store sales index testified that the prices which would have resulted from the use of the disposable income factor were reasonable. It appears therefore that to adopt both the 1950 base and the disposable income factor, it would be necessary to consider the fact that the disposable income factor would have resulted in a 1950 price 22 cents lower than actually existed. In 1951 the substitution of the disposable income factor would have had very little effect on the average price for the year. It appears desirable therefore to adopt the 1951 base which is more up to date and which can be used with the base price computed on the same period. By adopting the 1951 base period, it is apparent that the basic price level would change in the future from the 1951 level in accordance with changes in the formula index and the percentage of normal supply. Since the measure of normal supply proposed at this time, during the first six months of 1952, was close to 100 percent, it appears that the prices in 1951 were about right to maintain a normal supply. If the evidence in future months indicates that the current price level is not maintaining the normal level of supply, the adjustment feature of the pricing formula would make the necessary change automatically.

Since the formula involves several complicated calculations, it is important to avoid any unnecessary computations. The record indicates that farm wage rates published for the New England region as a whole vary about the same as the rates for the individual states in the milkshed. Accordingly, the regional rates should be used to reflect the farm labor cost factor of the formula.

With the adoption of more frequent seasonal price changes, it is not likely that the proposed formula would produce price changes contrary to the desirable seasonal price pattern except during the months of November and December. It is concluded therefore that the order provide that the Class I formula price shall not be lower in the months of November and December than it was in the preceding month.

The record indicates that the basic Class I pricing formula should be the same for each of the five Massachusetts Federal order markets. The changes in Class I prices in each of these markets should take place at the same time and in the same amount in order to maintain the appropriate differentials between the prices established for the different markets and zone locations. The differentials between the five market Class I prices have been established at the present level for several years. There is no evidence in this record to support any change in the present market differentials.

A representative of the Massachusetts Milk Control Board urged at the hearing that the Class I pricing provisions make specific requirement for yearly hearings on the Class I price and the appointment of a committee to study the Class I pricing problem. Since the situations which may indicate the need for a hearing cannot be expected to occur at regular yearly intervals, there appears to be no basis for scheduling hearings in advance of some showing that an amendment to the order may be needed.

Interested persons have joined together voluntarily to prepare testimony and evidence to be presented at public hearings. The group which is known as the "Boston Class I Price Committee" is such an unofficial voluntary company of persons interested in milk pricing. Certain witnesses appear to have gained the impression that this voluntary group is commissioned by the Department of Agriculture to assume some responsibility in determining Class I pricing methods suitable for these New England Federal order markets. To formalize the committee's organization would appear to encourage this impression. Since the responsibility for determining prices which will effectuate the declared policy of the Act rests with the Department of Agriculture, such an impression would be misleading. Therefore, it does not appear desirable to provide for a permanent and formalized committee as a part of the order regulation.

2. *Obligations with respect to members of cooperative associations.* The present order provisions of the five New England orders should be revised to require a handler to supply to an association of producers information on quantities of milk delivered to the handler by each member of the association whose name the association has previously furnished the handler. The orders presently provide that handlers make dues deductions and pay the amount deducted to the association for whom such deduction was made. Since an association would have no basis for checking the correctness of the deductions without information as to the pounds of milk delivered by each of its producer members, it is concluded that such information should be supplied promptly after producer payments are made. The proponents further requested that the order provisions be so written as to require handlers to allow an association access to receiving records, butterfat tests, and samples of its producer members. The record shows that State laws presently require that such information be made available to individual producers or the producer's authorized agent. Accordingly, it is unnecessary that such a provision be included in the orders.

The addition of a definition of an "association of producers" under the Boston order will facilitate writing the language of the other order provisions. The term is common to Federal milk marketing orders and is presently included in the secondary market orders. Section 75 of the Boston order which refers to the collection of membership dues should refer to the new definition of "association of producers."

3. *Classification of milk transferred from second plant.* The classification provisions of the Lowell-Lawrence, Springfield, and Worcester marketing orders dealing with milk transferred to a second unregulated plant should be

revised to permit the classification of milk moved through two unregulated plants in a class other than Class I. Under the present provisions, pool milk moved out of a regulated plant of a nonpool handler or out of an unregulated plant in the form of any fluid milk product except cream, is automatically classified as Class I milk. This same situation presently exists in the Boston order. However, the recommended decision of the Assistant Administrator issued April 13, 1952, proposed that the order provide that classification be followed through the second plant movement in the case of plants which are not regulated plants of pool handlers and which are located within the New England States and New York. The same reasoning set forth in this decision with reference to Boston is equally applicable to Lowell-Lawrence, Springfield, and Worcester and accordingly corresponding changes should be made in these orders.

4. *Boston zone price differentials.* No change should be made in the provisions of the Boston order establishing differentials for milk received at different zone locations. A handler currently operating in the Boston market indicated his intention of extending country plant operations to an area located more than 400 miles from Boston and proposed that the table of differentials be extended to distances up to 450 miles.

The information in this record is not sufficient to form a basis for reappraising the table of price differentials. Since the handler has not yet acquired a plant at the more distant location, there is no urgency to reach a decision. Accordingly, no change in the zone price schedule should be made on the basis of this record.

5. *Classification and pricing of products transferred between Worcester and Boston.* The present provisions of the Worcester order dealing with the computation of the uniform price should be amended to deduct any amounts which a Worcester handler is required to pay into the Boston pool for milk disposed of to consumers in the Boston marketing area.

Receipts at a Boston pool plant from a Worcester handler are presently considered as receipts of outside milk and are assigned to Class II without regard to the specific use of such receipts. Class I products disposed of by a Worcester handler directly to consumers in the Boston marketing area, on the other hand, are subject to a payment into the Boston pool of the difference between the Boston Class I and Class II prices. In addition the Worcester handler must account to the Worcester pool at the full Class I price for such sales. The resulting charge is excessive since it totals more than the Class I price on the quantity of milk sold in such a manner.

The record indicates that milk transferred from the Worcester market to Boston pool plants is usually seasonal surplus milk in Worcester and that during the short production season Worcester handlers depend on the Boston pool for supplementary milk supplies to meet the Class I needs of the market.

Because of the present generally short supply of milk received from producers for the Worcester market in relation to the Class I sales in that area, it is unlikely that Worcester producers could regularly supply all of the Class I requirements of additional customers located in the Boston marketing area. Therefore, it is possible that such sales direct to consumers in the Boston marketing area might be regarded as surplus to the Worcester pool since Worcester producers would have only enough milk over their own market requirements to fill such sales during the flush production season.

Although the record of the reopened hearing indicates that there is some possibility that the Boston pool may receive double Class I sales in some instances in which milk was transferred from a Boston pool plant to a Worcester plant and then to a second Worcester plant from which sales were made in the Boston marketing area, the arguments for establishing equal cost of Class I milk regardless of the order source are more compelling than the avoidance of such a possibility. If the quantity of milk disposed of by Worcester handlers direct to consumers in the fringe territory of the Boston marketing area amounts to a considerable part of the sales in such territory at any time in the future, a re-examination of the area boundaries or a review of this decision to credit the Worcester pool with Class II value on such sales should be made.

Certain witnesses at the hearing contended that the present provisions of the Boston and Worcester orders give an unreasonable advantage to Boston producers and handlers at the expense of Worcester producers and handlers and they proposed that the order of treatment be reversed to the advantage of the Worcester producers and handlers. The record indicates, however, that the Worcester pool under this plan of assignment suffers no loss of Class I sales which Worcester producers could supply on a year around basis.

6. *Location differentials under the Worcester order.* No changes should be made at this time in the nearby location differentials under the Worcester order. A handler operating a country plant under the Worcester order contended that during each month of the period November 1951 through February 1952, his country blend price ran under the Boston blend for competing plants and as a result he experienced considerable difficulty in holding his producers. He proposed that the order be amended to provide that the country plant price never be allowed to go below the Boston blend at that point and that whenever this would otherwise occur the nearby differential be reduced by the amount necessary to equalize the country plant prices.

The pricing plan should provide a Worcester blend price at least equivalent to the Boston blend at such points on an annual basis in view of the relatively higher proportion of Class I milk in the Worcester market. The evidence concerning lower Worcester prices for a few months does not mean, however, that the Worcester price is tending to run lower than the Boston price on an annual basis in the same zone. Under normal circumstances the seasonal pattern of blend prices in the Boston and Worcester markets varies so that the Worcester price tends to run higher than the Boston price in the flush production season and lower in the short production season.

General findings. (a) The proposed marketing agreements and the orders, now in effect, and as hereby proposed to be amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreements and the orders, now in effect, and as hereby proposed to be amended, regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in marketing agreements upon which a hearing has been held; and

(c) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the respective marketing areas, and the minimum prices specified in the proposed marketing agreements and in the orders, now in effect, and as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk in each of said marketing areas, respectively, and be in the public interest.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of interested persons. The briefs contained suggested findings of facts, conclusions, and arguments with respect to the proposals considered at the hearing. Every point covered in the briefs was carefully examined along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the suggested findings and conclusions are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied.

Recommended Marketing Agreements and Orders. The following amendments to the respective orders are recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as amended, and as proposed here to be further amended.

Boston, Lowell-Lawrence, Fall River, Springfield, Worcester:

1. Amend Parts 904, 934, 947, 996, and 999 to include new §§ 904.48, 934.48, 947.48, 996.48, and 999.48. Each section designated above reads as follows:

NEW ENGLAND BASIC PRICE FORMULA

Computation of New England Class I formula basic price. The New England Class I formula basic price per hundredweight of milk containing 3.7 percent butterfat shall be determined for each month pursuant to this section. The latest reported figures available to the

market administrator on the 25th day of the preceding month shall be used in making the following computations except that if the 25th day of the preceding month falls on a Sunday or legal holiday, the latest figures available on the next succeeding work day shall be used.

(a) Compute the formula index as follows:

(1) Divide by 1.143 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1947–49 as the base period.

(2) Using the most recent available data on National and Regional per capita income payments as published by the United States Department of Commerce, establish the current percentage relationship of New England per capita income to the National per capita income, such percentage to be known as the "New England adjustment percentage." Multiply by the New England adjustment percentage the latest available quarterly figures showing the current annual rate of per capita disposable personal income in the United States as released by the United States Department of Commerce or the Council of Economic Advisers to the President. Divide the result by 15.17 to determine an index of per capita disposable income in New England.

(3) Compute the simple average of the four latest weekly average retail prices per ton of dairy ration in the Boston milkshed as reported by the United States Department of Agriculture and divide the average by 0.884 to determine the dairy ration index. Compute the average weighted by the indicated factors of the following wage rates reported for the New England region by the United States Department of Agriculture: Rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and the rate per day without board or room, 26. Divide the average wage rate so computed by 1.458 to determine the wage rate index. Multiply the dairy ration index of 0.6 and the wage rate index by 0.4 and combine the two results to determine the grain-labor cost index.

(4) Divide by 3 the sum of the wholesale price index, the index of per capita disposable income in New England and the grain-labor cost index determined pursuant to this paragraph. The result shall be known as the formula index.

(b) Multiply the formula index by $5.61 and divide by 100 to determine the formula index price.

(c) Determine the annual level of the basic price by applying to the formula index price a supply-demand adjustment as follows:

(1) Combine into separate monthly totals the receipts from producers for each of the markets listed below and the Class I producer milk for the same markets as announced by the respective market administrators in the statistical reports for such markets for the second and third months preceding the month for which the price is being computed.

Boston.
Lowell-Lawrence.
Springfield.
Worcester.

(2) Divide the four-market total of Class I producer milk by the four-market total of receipts from producers for each of the two months calculated pursuant to subparagraph (1) of this paragraph.

(3) Divide each of the percentages determined in subparagraph (2) of this paragraph into the following normal Class I percentage for the respective month and compute a simple average of the resulting percentages rounded to 3 decimal figures.

	Normal class I percentage
January	76.9
February	73.9
March	65.3
April	57.7
May	51.6
June	50.7
July	61.6
August	70.1
September	70.7
October	73.4
November	82.0
December	77.8

(4) Compute an annual level of the basic price by multiplying the formula index price by the applicable supply-demand adjustment in the following table. To determine the applicable adjustment, locate the bracket under the normal supply column within which the percentage computed pursuant to subparagraph (3) of this paragraph falls. If the percentage falls in an interval between brackets, the applicable bracket shall be that above the interval in which the percentage falls if the adjustment for the previous month was determined by a bracket above such interval, and shall be determined by the bracket below such interval if the adjustment for the previous month was determined by a bracket below such interval. In determining the price for the first month in which this section is effective, the nearer bracket shall apply.

Normal supply factor:	*Supply-demand adjustment*
91.5 and under	1.12
92–92.5	1.10
93–93.5	1.08
94–94.5	1.06
95–96	1.04
97–98	1.02
99–101	1.00
102–103	.98
104–105	.96
106–107	.94
108–109	.92
110–111	.90
112 and over	.88

(d) Compute the seasonally adjusted price by multiplying the annual level of the basic price by the applicable seasonal factor as follows:

January	1.04
February	1.04
March	1.00
April	.92
May	.88
June	.88
July	.96
August	1.00
September	1.04
October	1.08
November	1.08
December	1.08

(e) If the resultant price computed pursuant to paragraph (d) of this section falls within 11 cents of $5.87, the New England basic Class I formula price shall be $5.87 and if the resultant price is more than $5.98 or less than $5.76, the New England basic Class I formula price shall be that price above or below $5.87 by multiples of 22 cents which is nearest to the resultant price.

(f) Notwithstanding the provisions of (a) through (e) of this section, the basic formula price for November or December of each year shall not be lower than the basic formula price for the immediately preceding month.

Lowell-Lawrence, Springfield, and Worcester:

2. Delete §§ 934.40, 996.40, and 999.40 of Parts 934, 996, and 999 and for each deletion substitute the following section in each part:

Class I price at city plants. The Class I price per hundredweight for milk received at city plants shall be the New England Class I formula basic price per hundredweight determined for each month pursuant to section 48 of this part plus 52 cents: *Provided*, That the price shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201-210 miles, inclusive, as published in the New England Joint Tariff No. 6 and supplements thereto or revisions thereof. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

3. In Parts 934, 996, and 999, delete the present language of §§ 934.16 (e), 996.16 (e), and 999.16 (e), following the comma after the word "orders" and substitute in each case therefor the following: "and thence to another plant, they shall be classified by applying the provisions of paragraphs (a) through (d) of this section, whichever is applicable except that if the other plant to which such movement is made is located outside of the New England States and New York State, they shall be classified as Class I milk."

4. Amend § 934.70 and §§ 996.71 and 999.71 by deleting the period at the end of the section and substituting therefor the following: ", accompanied by a statement showing the pounds of milk delivered by each producer from whom the deduction was made."

Boston:

5. Amend § 904.2 by renumbering paragraphs (f) through (k) as paragraphs (g) through (l) respectively and by adding a new paragraph (f) as follows:

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922,

known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

6. Delete § 904.40 and substitute:

§ 904.40 *Class I prices.* The Class I price per hundredweight for milk received at plants located in the 201–210 mile zone shall be the New England Class I formula basic price per hundredweight determined for each month pursuant to § 904.48.

7. Revise § 904.75 of the Boston order by deleting the present language and substituting therefor the following:

§ 904.75 *Deductions from payments to members.* (a) Each association of producers may file with a handler who is not an association of producers, a claim for authorized deductions from the payments otherwise due to its producer members for milk delivered to such handler. Such claim shall contain a list of the producers for which such deductions apply, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer listed authorizing the claimed deduction.

(b) In making payments to his producers for milk received during the month, each handler shall make deductions in accordance with the association's claim and shall pay the amount deducted to the association with an accompanying statement showing the pounds of milk delivered by each producer from whom the deduction was made, within 25 days after the end of the month.

Fall River:

8. Delete § 947.50 and substitute:

§ 947.50 *Class I prices.* Each handler shall pay producers or cooperative associations for Class I milk containing 3.7 percent butterfat delivered by them to plants located within 100 miles of the City Hall in Fall River, not less than the New England Class I formula basic price per hundredweight determined for the month plus 81 cents: *Provided*, That the price shall be increased or decreased to the extent of any increase or decrease in the rail tariff for the transportation of milk in carlots in tank cars for mileage distances of 201–210 miles, inclusive, as published in the New England Joint Tariff M No. 6 and supplements thereto or revisions thereof. The adjustment shall be made to the nearest one-half cent per hundredweight, and shall be effective in the first complete month in which such increase or decrease in the rail tariff applies.

9. Amend § 947.72 by adding a sentence at the end of the section as follows: "Such payment shall be accompanied by a statement showing the pounds of milk delivered by each producer for whom such deduction was made."

Worcester:

10. Amend § 999.50 by adding a new paragraph (g) as follows:

(g) Substract any amount which the handler is required to pay on such milk pursuant to § 904.66 (b) of this subchapter.

Issued at Washington, D. C., this 8th day of July 1952.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 52-7635; Filed, July 11, 1952; 8:49 a. m.]

[7 CFR Part 906]

[AO-210-A2]

HANDLING OF MILK IN TULSA, OKLAHOMA, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held in the Junior Ball Room, Hotel Tulsa, Tulsa, Oklahoma, beginning at 10:00 a. m., c. s. t., July 29, 1952, for the purpose of receiving evidence with respect to proposed amendments hereinafter set forth or appropriate modification thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Tulsa, Oklahoma, marketing area. These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments to the order, as amended, regulating the handling of milk in the Tulsa, Oklahoma, marketing area were proposed, as enumerated below.

Proposed by Pure Milk Producers Association of Tulsa:

1. Delete § 906.51 (a) and substitute in lieu thereof the following:

(a) *Class I milk.* The basic formula price plus $1.65 during the months of April, May, and June, and plus $2.05 during all other months: *Provided*, That for each of the months of September, October, November, and December, such price shall not be less than that for the preceding month, and that for each of the months April, May, and June, such price shall not be more than that for the preceding month.

(1) Divide the total receipts of producer milk in the first and second months preceding by the total gross volume of Class I milk (excluding interhandler transfers and sales by producer-handlers and handlers partially exempt from this order pursuant to § 906.61) for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the Class I utilization percentage;

(2) Compute a "net utilization percentage" by algebraically subtracting from the Class I utilization percentage computed pursuant to subparagraph (1) of this paragraph, the standard utilization percentage shown below:

Month for which price applies	Months used in computation	Standard utilization percentage
January	November-December	110
February	December-January	110
March	January-February	114
April	February-March	107
May	March-April	112
June	April-May	130
July	May-June	136
August	June-July	139
September	July-August	135
October	August-September	132
November	September-October	119
December	October-November	110

(3) For each minus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be increased 3 cents in January, February, March, July, and August; 2 cents in April, May, and June; 4 cents in September, October, November, and December; and for each plus percentage point in excess of 2 in the "net utilization percentage" the Class I price shall be decreased 3 cents in January, February, March, July, and August; 4 cents in April, May, and June; and 2 cents in September, October, November, and December: *Provided*, That in no event shall an adjustment made pursuant to this subparagraph exceed 50 cents per hundredweight.

2. Amend the provisions of § 906.22 (j) (1) to read as follows:

(1) On or before the 10th day of each month the minimum price for Class I milk computed pursuant to § 906.51 (a) and the Class I butterfat differential computed pursuant to § 906.52 (a) both for the current month; and on or before the 5th day of each month the minimum price for Class II milk pursuant to § 906.51 (b) and the Class II butterfat differential computed pursuant to § 906.52 (b) both for the previous month; and

3. Insert a new § 906.62 to read as follows:

§ 906.62 *Handlers doing less than 20 percent of their business in the marketing area.* In the case of any handler (except a handler who would be covered under § 906.61) who the Secretary determines disposes of less than 20 percent of his milk, qualified for distribution as Grade A milk in the marketing area, as Class I milk in the marketing area, the provisions of this subpart shall not apply except as follows:

(a) The handler shall, with respect to his total receipts of skim milk and butter fat, make reports to the market administrator at such time and in such manner as the market administrator shall require and shall allow verification of such reports by the market administrator pursuant to § 906.33;

(b) Pay to the market administrator for deposit into the producer-settlement fund, with respect to all skim milk and butterfat disposed of as Class I milk with the marketing area, an amount equal to the difference between the Class I and Class II value of such skim milk or but-

terfat as computed pursuant to this subpart;

(c) As his pro-rata share of the expense of administration hereof, such handler shall pay to the market administrator on each hundred weight of milk disposed of as Class I milk in the marketing area the amount per hundredweight in the manner specified in § 906.88.

Proposed by the Tulsa Handlers:

4. Delete § 906.6 and substitute therefor the following:

§ 906.6 *Tulsa, Oklahoma, marketing area.* Tulsa, Oklahoma, Marketing Area means all the territory within the boundaries of Tulsa, Creek, Mays and Rogers counties, that part of Wagoner County along and north of State Highway No. 51, that part of Delaware County which is west of State Highway No. 10 including the towns of Jay and Grove, that part of Ottawa County which lies west and south of State Highway No. 10 and including the towns of Quapaw, Picher, Cardin, Commerce and Miami, that part of Craig County that lies south of State Highway No. 10 and that part of Nowata County that lies south of State Highway No. 10 and the town of Lenapah, that part of Washington County that lies south of the town of Copan, that part of Osage County that lies south of State Highway No. 60 and east of State Highway No. 99 that part of Pawnee County that lies east and south of State Highway No. 99, and that part of Payne County that lies east of State Highway No. 40, including all the towns located on or adjacent to these highways in these counties within these given limits, all in the state of Oklahoma.

5. Add to § 906.44: "to provide that other source milk that is received by a handler to supplement the supply of producer milk during a period of short supply shall be credited to Class I sales if the Market Administrator determines that a sufficient quantity of producer milk was not available, at the time the other source milk was received, even though the total sales of Class I for the entire month is less than total producer milk delivered during that month."

6. Amend § 906.51 (a) as follows:

(a) *Class I milk.* The basic formula price plus $1.45 during the months of April, May, June, July and August and plus $1.85 during all the other months.

7. Add to § 906.53 paragraph (c) as follows:

(c) Is moved to an unapproved plant located outside the Marketing Area in the form of milk, skim milk, or cream, after the Market Administrator has been given notice of such intention and he has determined that such milk is not needed in the Marketing Area for Class I usage, the prices specified in § 906.51 shall be subject to a location adjustment credit to the handler computed as follows, etc.:

8. In § 906.41 (a) delete the following: "aerated products containing milk or cream,".

9. That the basic fat test be 3.5 percent and all provisions of the order pertaining to basic test be changed to 3.5 percent instead of 4.0 percent.

10. In § 906.65 *Computation of daily average base,* include the following proviso: "*Provided,* That if producer receipts are less than 12 percent in excess of Class I sales during October, November, or December of each year bases for new producers entering the Market after October 2, will be determined by dividing their total deliveries during such month or months by the number of days in that period and *Provided further,* That if Class I usage is less than 12 percent in excess of producer receipts during the months of January or February bases for new producers entering the Market during that time will be determined by the amount of their milk that is needed to increase producer receipts to an amount that is 12 percent in excess of Class I usage, but such producer's base shall not be more than 90 percent of his average daily deliveries."

11. § 906.88 *Expense of administration:* That the handler assessment be reduced to 3 cents per hundredweight.

Proposed by Dairy Branch, Production and Marketing Administration:

12. Make such other changes as are necessary to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and of the order, as amended, now in effect, may be procured from the market administrator, 2635 East 11th Street, Royal Theatre Building, Tulsa, Oklahoma, or from the Hearing Clerk, Room 1353 South Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Dated: July 9, 1952.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 52-7671; Filed, July 11, 1952; 8:57 a. m.]

[7 CFR Part 941]

[Docket No. AO 101-A 14]

HANDLING OF MILK IN CHICAGO, ILLINOIS, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act", and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Chicago, Illinois, marketing area.

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 12th day after its publication in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. A public hearing on proposed amendments to the order was held by the Production and Marketing Administration, United States Department of Agriculture, on April 14-17, 1952. Proposals to amend the order were submitted by the Associated Milk Dealers, Inc., Baldwin Cooperative Creamery et al., Beatrice Foods Company, Central Dairy Company et al., Consolidated Badger Cooperative et al., Chicago Milk Producers Council, Dean Milk Company, Ice Cream Manufacturer's Association of Cook County, Pure Milk Products Cooperative, and the Dairy Branch, Production and Marketing Administration.

The major issues presented on the record of the hearing and covered by this decision were whether the order should be amended to provide for:

(1) Revision of location adjustments to producers and handlers:

(2) Reclassification of (a) ice cream, ice cream mix, and (b) powdered ice cream mix, powdered cream, and (c) frozen concentrated milk;

(3) Expansion of the "surplus milk manufacturing area;"

(4) Classification of condensed or concentrated milk of from 2 to 12 percent butterfat disposed of in bulk outside the surplus milk manufacturing area as Class I milk;

(5) Revision of the basic formula price provisions and the introduction of a new price formula applicable to milk used in cheese;

(6) Modification of the method of pricing Class IV milk by the introduction of a "labor coal" index factor for automatically adjusting the "make allowance" in the formula;

(7) Consolidation of Order 91 with Order 41;

(8) Modification of the pool plant provisions;

(9) Revision of the rules governing the transfer or diversion of milk and cream during work stoppages;

(10) Substitution of price quotations on cheese at Wisconsin primary markets for Wisconsin Cheese Exchange quotations presently used in computing the basic formula and Class III milk prices;

(11) Expansion of the marketing area;

(12) Modification of the provision relating to the classification and pricing of milk subject to more than one Federal order; and

(13) Certain changes of an administrative character.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hefeby made upon the basis of the record of the hearing:

(1) No change should be made in the rates of location adjustments to handlers or to producers.

The present provisions of Order 41 provide that location adjustment shall be allowed handlers on all milk classified as Class I milk and all milk moved as fluid milk or fluid skim milk to a bottling plant located less than 70 miles from the City Hall in Chicago. These location adjustments are at the rate of 2 cents per hundredweight for each 15 miles or fraction thereof that the pool plant at which such milk was received from producers is located more than 70 miles from the City Hall in Chicago.

With respect to location adjustments to producers, the present order provides that handlers shall pay to producers the uniform price announced for the 55 to 70 mile zone less 2 cents per hundredweight for each 15 miles or fraction thereof that the pool plant at which the producers' milk is received is located more than 70 miles from the City Hall in Chicago. The order further provides that milk received from producers at plants located outside of the marketing area but less than 55 miles from the City Hall in Chicago shall have 2 cents per hundredweight added to the announced price, and milk received directly from producers at plants located within the marketing area shall be paid for at the announced uniform price plus 10 cents.

There was one proposal to change the location adjustments to handlers. It would increase the adjustment per hundredweight of Class I milk from the present 2 cents to 3 cents for each 15 miles or fraction thereof that the plant is located more than 70 miles from the Chicago City Hall. Proponents submitted evidence of quoted rates for truckers hauling milk from a number of plants in the Chicago milkshed to Chicago. They did not show the hauling rates for plants within the 70 mile area nor were any comparisons made of the differences between rates per hundredweight of milk shipped from plants on the 70-mile zone perimeter and the plants for which rates were quoted. Location adjustments to handlers have been based on distances greater than the 70-mile zone and this policy was not questioned by proponents of the changed rates. Additional evidence was presented by other interested parties which quoted trucking rates from plants in the milkshed including several located in the 70-mile zone. These data as well as those presented by the proponents indicate that the zone difference in cost of moving fluid milk or fluid skim milk from points throughout the milkshed continues to approximate 2 cents per hundredweight. No evidence was presented regarding the rates of shipping cream in the Chicago market. It is concluded that a change in the location adjustments to handlers is not warranted on the record.

Two proposals were presented that would change the location adjustments used in adjusting producer payments. One would increase the rate per hundredweight of milk from 2 cents to 3 cents for each 15 miles or fraction thereof that the plant at which the milk is received is located more than 70 miles from the City Hall in Chicago. This proposal was made in conjunction with the proposal that location adjustments to handlers per hundredweight of Class I milk be increased from 2 cents to 3 cents per zone. In effect, the proponents would continue to base the location adjustments to producers at the same rate per hundredweight of milk as is allowed handlers as a location adjustment. This principle underlies the location adjustment to producers presently contained in Order 41. Inasmuch as it is concluded that the evidence does not warrant a change in the location adjustments to handlers neither is a change in the location adjustments to producers from 2 cents to 3 cents per hundredweight of milk per zone supported by the testimony.

The second proposal would change the present location adjustment rate to producers from 2 cents per hundredweight of milk per zone to a lesser amount. This amount was not specified but in principle would be based on a combination of location adjustments allowed handlers on milk and cream. This proposal is essentially the same as one which was under consideration at a hearing held in November 1949. At that time it was found that the facts did not bear out the contention that producers in the most distant areas of the milkshed would be at a disadvantage compared to nearby producers as a result of the producer location adjustment provisions recommended at that time. The location adjustments on producer milk adopted as a result of the November 1949 hearing are the provisions presently contained in the Chicago order.

In the decision issued February 8, 1950, preceding such amendment, it was pointed out that a rate of location adjustment on producer milk less than the rate used to determine location adjustments to handlers for fluid milk would: (1) Encourage further expansion of the milk supply at distant points and further reduce milk production in nearby areas by giving distant producers more favorable prices relative to producers nearer the market, (2) at certain times result in uniform prices to producers at distant points in the milkshed greater than the Class I price at the same point which would permit plants to draw money from the pool even when all of its milk was utilized in Class I, (3) increase the seasonal surplus problem by encouraging greater production in the far out zones where the seasonal pattern of production is greater than in the nearby areas. Official notice of such decision is taken. The evidence bearing on these points in the present record does not warrant a change in the rate of location adjustments on producer milk established as a result of the November 1949 hearing. It is concluded that no change be made.

(2) (a) Milk and milk products derived from Grade A milk as defined in the order which are used in the manufacture of ice cream, ice cream mix, and other frozen dessert mixes should be classified as Class II milk.

The present provisions of Order 41 classify milk and milk products derived from Grade A sources and used in the manufacture of ice cream, ice cream mix, and frozen dessert mixes as Class II milk, while unapproved or Grade B mix, and frozen dessert mixes as Class products is classified as Class III milk when its use is not in violation of an appropriate health authority having jurisdiction in the marketing area.

It was proposed that approved milk and milk products used in the manufacture of ice cream and ice cream mix continue to be classified as Class II milk when these products are disposed of within the city limits of Chicago but that milk and milk products used in ice cream and ice cream mix disposed of outside of the city of Chicago be classified as Class III milk.

Proposals essentially the same as this proposal have been considered at previous hearings to amend Order 41, the most recent of which was a hearing held during January 1951. On the basis of the evidence given at that time it was determined that all approved milk and milk products used in ice cream and ice cream mix should be classified as Class II milk because (1) pricing milk and cream used in ice cream manufacture at the Class III price would return less money to producers than they receive for milk used to make Class III manufactured products at country plants due to the reduction in value that would result from location adjustments being allowed on this milk when moved to the marketing area, and (2) prices to producers for Grade A milk should be designed to bring forth an adequate but not burdensome market supply for those uses requiring high quality milk, but should not be designed to provide a regular supply of Grade A milk for uses not requiring milk of such quality.

Although the present record discloses the additional point that by recent development ice desserts using vegetable fat in lieu of butterfat have become a competitive factor in the disposition of ice cream by ice cream plants, a review of the present record does not reveal evidence on this point that could lead to a different conclusion than was reached as a result of previous hearings. This substitution of vegetable fat exists both within and outside the city limits of Chicago and is related to the problem of the level of the price for all ice cream made from inspected milk rather than to the pricing of that portion of the local production disposed of outside the city. A decision stating the considerations involved in establishing the level of the Class II price was issued by the Secretary on June 13 following the hearing held in March of this year. Official notice is taken of such decision. There was no new evidence advanced as a basis for altering the terms of such decision on this point. It is concluded that all milk and milk products derived from approved sources and used in the manufacture of ice cream, ice cream mix, and other frozen dessert mixes be classified and priced as Class II milk.

(b) "Powdered cream" and "powdered ice cream mix" should not be reclassified and the Class II definition should not be modified to exempt these products disposed of in bulk to plants located outside the "surplus milk manufacturing area."

One handler proposed that "powdered cream" and "powdered ice cream mix" should be classified in Class III milk to be priced competitively with whole milk powder. It was pointed out that such powdered milk products are sold nationwide and may be manufactured from non-Grade A milk although some Grade A milk is used in their manufacture. In further support of this proposal the proponent testified that Grade A milk which is used in manufacturing channels is excess milk and that handlers who carry excess milk should be permitted a choice in manufacturing those milk products which enable them to recover at least part of the cost involved in handling such excess.

The record does not establish that this product can be made from unapproved milk if sold in the main segments of the marketing area. In this connection official notice is taken of the decision for Order 41 issued April 27, 1951, in which the issue herein described was discussed. The present record does not disclose any appreciable change in the circumstances which prevailed at the time such decision was made. In view of the foregoing it is concluded that an adequate basis for revising the order in accordance with the present proposal is not provided by the record.

(c) Frozen concentrated milk should not be reclassified.

A handler proposed that frozen concentrated milk (if and when sold in the marketing area) should be reclassified from Class I milk to Class III milk and that the definition of frozen concentrated milk should be revised to include such product only if it is put out in hermertically sealed cans. The request for reclassification as pointed out by the proponents is made on the ground that frozen concentrated milk is not directly competitive with fresh fluid milk but rather is competitive with manufactured products such as evaporated milk and powdered milk. It was further contended that the present classification restricts the promotion of this product.

The record indicates, however, that frozen concentrated milk is primarily intended for use as a beverage regardless of any other uses to which it might be put. It is not evident that it may be made from unapproved milk if disposed of in the principal communities of the marketing area. It is concluded that frozen concentrated milk should not be reclassified to Class III milk on the basis of the information presented.

(3) Knox County, Illinois, should be added to the surplus milk manufacturing area and Shelby County, Illinois, should be eliminated from the surplus milk manufacturing area.

The surplus milk manufacturing area generally approximates the milk supply area of the Chicago market and is intended to include the locations of unregulated plants that normally serve as outlets for reserve milk diverted from the Chicago market. It serves the purpose of placing a reasonable limit upon the area in which reserve milk may be disposed and still be classified on the basis of the purpose for which it is used rather than according to the form in which it is disposed. Any milk moved outside this area as fluid milk or fluid skim milk automatically is classified as Class I milk and any cream so moved is automatically Class II milk.

It was proposed that the surplus milk manufacturing area be enlarged by the addition of eight counties. These counties are Knox, Coles, Macon, Sangamon, and Vermilion Counties in the State of Illinois; Montgomery and Knox Counties in the State of Indiana; and Dubuque County in the State of Iowa. Another suggestion made would eliminate Shelby County, Illinois, from such area.

The handler representative proposing enlargement of the surplus milk manufacturing area testified that while his company had subsidiary fluid operations located in each of these counties, it likewise maintained some manufacturing facilities at these locations which would be helpful additions to the manufacturing facilities available to all Order 41 handlers, as well as to his company.

The proponent's need for additional manufacturing facilities in the surplus milk manufacturing area was supported by testimony only in respect to Knox County, Illinois. These facilities have been used in the past to process surplus milk from fluid milk operations regulated by the order, and the record indicates that these facilities would normally be used for the disposal of surplus milk if Knox County, Illinois, were included in the surplus milk manufacturing area.

With respect to the other seven counties, the record contains no evidence to support their being added to the surplus milk manufacturing area other than a statement that manufacturing facilities are located in these counties which would be available to the market if needed. Considerable testimony relating to all eight of these counties dealt with competitive procurement problems regarding milk used for fluid purposes. However, the expansion of the surplus milk manufacturing area for reasons other than those directly related to the disposal of reserve milk is unwarranted. Therefore, only Knox County, Illinois, should be added to the surplus milk manufacturing area.

Shelby County, Illinois, is presently a part of the surplus milk manufacturing area. Its inclusion in the area was warranted by the fact that prior to February 1, 1952, a pool plant under the order was located in the county. Since that time however the plant has ceased to operate as a pool plant under Order 41. There is no evidence in the record to the effect that Shelby County should continue to be included in the surplus milk manufacturing area and therefore it is excluded.

(4) Milk moved as condensed or concentrated milk in bulk containing not less than 2 percent nor more than 12 percent of butterfat from a regulated plant to a plant located outside the surplus milk manufacturing area should be classified as Class I milk.

Order 41 presently provides that condensed milk moved from a regulated plant to a plant located outside the surplus milk manufacturing area shall be classified in the form in which it leaves the plant, i. e., as Class III (a) milk.

Testimony was given to the effect that administrative difficulties arise in distinguishing between condensed milk which is Class III (a) under the order and that concentrated milk which is defined as Class I milk. Further evidence was given to the effect that over the past few years there has been practically no condensed whole milk processed by Order 41 handlers and that milk which is condensed or concentrated and moved outside the surplus milk manufacturing area is intended primarily for ultimate reconstitution and use in fluid form.

A proposal was submitted to provide that such milk be classified as Class I milk rather than be given a Class III (a) classification. In consideration of the foregoing and in further view that the present order does not provide a satisfactory method of dealing with this situation, it is concluded that condensed or concentrated milk containing not less than 2 percent or more than 12 percent butterfat moved from a regulated plant to a plant outside the surplus milk manufacturing area should be classified as Class I milk. No adverse testimony on this proposal was presented.

(5) A milk price formula based on Cheddar cheese price quotations should be adopted to replace the butter-cheese formula as one of the basic formula prices in the Chicago order; milk utilized in the manufacture of cheese (other than cottage cheese) should continue to be priced under the present Class IV (butter-nonfat dry milk solids) price formula.

The basic formula price used to determine Class I and Class II prices is presently the higher of either the Class III or Class IV prices as computed for the preceding month. Specifically, this may be one of three formula prices which are: The average condensery pay price, the butter-nonfat dry milk milk solids formula, or the butter-cheese formula. Class I and Class II prices for the month are determined by adding to this basic formula price the appropriate Class I and II price differentials subject to an adjustment based on changes in the supply-demand relationship.

The present provisions of Order 41 classify all milk used in the manufacture of cheese other than cottage cheese as Class IV milk and as such its price is established each month by the butter-nonfat dry milk solids formula.

There were two proposals submitted relating to a cheese price formula. One producer association proposed that the formula be 2.75 times the simple average, as published by the Department, or prices per pound for "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the month, with the result multiplied by 3.5. It was proposed that the price resulting from this formula be substituted for the butter-cheese formula as a basic formula price and that in addition it be used to price milk utilized in Class IV for the manufacture of cheese. The second proposal was made by another producer association and in effect stated that in the event

that milk used in cheese were to be classified and priced separately such milk should be priced by the following formula: 9.745 times the average price of Cheddars on the Wisconsin Cheese Exchange as now published by the market administrator plus 0.28 times the average price of 92-score butter at Chicago plus 85 percent of the price per hundredweight for whey reported for the month by the Western Condensing Company at Appleton, Wisconsin. From this amount substract $0.494 per hundredweight and the result would be the price per hundredweight, on a 3.5 percent butterfat basis, for milk utilized in cheese.

The record shows that the first proposal is designed to produce a price level which will correspond closely to the average of prices paid to dairy farmers by Wisconsin cheese factories for milk used in the manufacture of cheese. It was stated that the factor 2.75 is intended to be a figure which when multiplied by the Wisconsin Cheese Exchange quotation for Cheddars will approximate the price per pound of butterfat paid to farmers by cheese factories. Considerable evidence was submitted for the record which related this formula price to the average price paid farmers by Wisconsin cheese factories as reported by the Department and by the Wisconsin State Department of Agriculture. In essence this formula is designed to measure the value of milk used for cheese from the standpoint of competitive "pay" prices as differentiated from the "cost and yield" method.

Reduced to its simplest form this formula is 9.625 times the average Cheddar cheese price (3.5 times 2.75=9.625). The average paying price of Wisconsin cheese factories as reported by the Department for 1950 and 1951 divided by the average cheese price quotation on the Wisconsin Exchange for those two years gives a factor of 9.45 compared to the 9.625 that was proposed. Inasmuch as this formula is designed to reflect average pay prices it is concluded that the factor of 9.45 should be used in place of 9.625.

The second cheese formula is designed to measure the value of milk used in the manufacture of Cheddar cheese by the use of a cost and yield method. Evidence submitted by the cooperative proposing this formula included cost data from its own plant to substantiate a $0.494 per cwt. manufacturing allowance. At the same time proponents testified that they were not proposing to substitute their formula to lower the Class IV price if the present Class IV formula could continue as the basis for pricing milk utilized in cheese manufacture. Their formula was offered for consideration in the event it were decided that milk used for cheese should be classified and priced separately from milk used for butter and other Class IV milk products. The proponents of this formula offered no criticism of pricing milk used for cheese at the butter-nonfat dry milk solids formula price than that market fluctuations in prices between butter and cheese cause returns from a cheese operation to fluctuate widely in some months when the milk is so priced.

An analysis of evidence in the record indicates that the difference between the gross value of the cheese, whey cream, and whey in one hundred pounds of 3.5 percent milk and the Class IV price for the period March 1950 to date has averaged $0.41 (with a median difference of $0.38). Taking the same gross returns from cheese, whey cream, and whey and subtracting the cheese formula price set forth herein (9.45 times the average Cheddar price) gives an average difference of $0.364 per hundredweight of 3.5 percent milk. It can reasonably be concluded from this comparison that the latter formula provides a manufacturing allowance for Cheddar cheese closely approximating that experienced since the Class IV formula was last amended effective March 1950.

Since the production of cheese has been increasing in recent years and represents a major use of milk in the Chicago supply area, it is concluded that a formula based on Cheddar cheese would be appropriate as one of the basic price formulas under the Chicago order. Under current conditions the butter-cheese formula does not fully reflect the value of milk utilized by cheese factories in the production area. However, the pricing of milk under the order which is utilized in the manufacture of cheese using this formula presents certain other problems, the most important of which is the pricing of milk used for cheeses not of the Cheddar type. At present all cheese other than cottage cheese is classified as Class IV milk and is priced at the butter-nonfat dry milk solids formula price. While the present record contains evidence pertaining to Cheddar cheese, it is concluded that the method of pricing other cheeses of the specialty type which represent an important part of the total quantity of cheese made from Order 41 milk should be given more consideration at a subsequent hearing before any change in the pricing of milk going into cheese can be made.

It is concluded therefore that a cheese price formula computed by multiplying the monthly average price per pound of Cheddar cheese as reported for Wisconsin primary markets by 9.45 (2.7 x 3.5) be substituted as a basic price formula in place of the present butter-cheese formula but that no change should be made at this time in the formula applicable to Order 41 milk used for cheese.

(6) The formula for pricing Class IV milk should not be revised to provide a "labor-coal" index as a means of automatically adjusting the operating allowance in such formula.

The proposal made for the inclusion of a "labor-coal" index in connection with the Class IV price formula as a means of effecting automatic adjustments in the operating allowance as manufacturing costs of butter and nonfat dry milk solids change was similar to that considered at the hearing on order amendments held January 22-31, 1951. The general basis for the proposal as presented at the current hearing also was similar to that given at the January 1951 hearing although at the recent hearing supporting data were presented in somewhat more detail and with certain refinements of application. The additional information presented, however, does not provide a basis for altering the conclusions reached in the decision of the Secretary issued June 12, 1951, official notice of which has been taken. It is concluded, therefore, that the labor-coal index should not be made a part of the Class IV price formula.

(7) Order No. 91 regulating the handling of milk in the Rockford-Freeport, Illinois, marketing area should not be merged with the Chicago order.

Proponents of the merger of Orders 91 and 41 testified to the overlapping of the Chicago and Rockford-Freeport milksheds and to the fact that Chicago handlers are distributing milk in cities of Rockford and Freeport to the extent of approximately 50 percent of the total quantity of milk sold in these cities. It was also pointed out that the difference in the utilization patterns of Rockford-Freeport and Chicago has resulted in different uniform prices and at times has encouraged a shift of producers from one market to the other. However, proponents testified that their primary interest in securing a merger of the two orders is to eliminate the expense of "duplicate" hearings. It was contended that since the two markets are closely related a hearing on proposed changes in the order regulating one market ordinarily requires an immediate hearing to consider the same types of change for the other market.

It appears, however, that the important issue is whether equity among producers and among handlers more orderly marketing would be promoted through consolidation rather than the cost of duplicate hearings. The record discloses that although the two markets are closely related the problems of each market in relation to the other may not necessarily be met simply by consolidation. Both markets have several separate and distinct problems resulting, for example, from such things as: (1) The difference in their size, (2) differences in the types and volumes of milk products made from inspected milk, and (3) differences in the cost of transporting the necessary supplies of milk and cream to the urban outlet. There was considerable disagreement as to the basis on which Order 91 producers should share in the market-wide pool following consolidation. Whether the expense of hearings would be minimized by a merger of the orders is at least debatable. Producer opponents of the merger expressed the belief that they would be forced to incur additional expense if the consolidation were to be made. Even if the orders remain separate, hearings may be held jointly if interested parties so desire and there are no compelling reasons for separate hearings. It may not be concluded from the testimony that orderly marketing would be promoted by consolidation under present circumstances concerning differences in the markets and the methods of regulation employed. The record indicates further that a large majority of Order 91 producers are opposed to consolidation.

A decision recommending certain amendments to the Rockford-Freeport order issued June 13, 1952, of which official notice is taken should ameliorate many of the marketing problems which

have arisen under Order 91 in relation to the Chicago market and Order No. 41. In view of the above, it is concluded that Order 91 should not be merged with Order 41 at this time.

(8) The "pool plant suspension" provisions of the order should be modified.

The "pool plant" provisions were first incorporated into the order July 1, 1951 as a result of the public hearing held in January 1951. The purpose of and reason for their inclusion were discussed at length in the decision of the Secretary issued June 12, 1951. Official notice is taken of such decision. Since its enactment, one season of operation under the amendment has passed. The revisions under consideration are a result of problems and situations which arose in the administration of the present provisions and are also an attempt to place some of the requirements on a more definitive basis.

It was recognized at the time the provisions governing plant suspension were first adopted that the requirements stated therein were susceptible of refinement but it was felt that some experience should be gained before an attempt should be made to more precisely distinguish pool and non-pool plants. The proposed modifications for the most part are a result of that experience.

Some difficulty has been experienced by the market administrator in completing audits of the necessary records for the fall delivery periods, particularly for November, to determine whether a plant has complied with the provisions in time to use February as the start of the suspension period. It is felt that some additional time should be provided for audit purposes, and therefore March is designated as the first month to which suspension should apply.

The record shows that such shortages as have occurred in the past have been with respect to milk and that the market has never been short of cream. Therefore, it is felt that the privilege accorded to pool plants of offering to ship either milk or cream in order to avoid suspension should be confined to milk only and that the privilege of offering to ship cream should be withdrawn.

There are some pool plants which dispose of considerable amounts of condensed skim milk to ice cream manufacturers in the marketing area. Inasmuch as the offer to ship is being confined to milk only, it is felt that the opportunity to comply by shipping milk should be expanded to include shipments of fluid skim milk and condensed skim milk. As a result of this addition and because the amount of butterfat in skim milk is negligible, the requirements for complying with the percentage provisions should be changed so that percentages can be computed on either a butterfat or product pound basis.

Several changes were proposed to meet certain problems which have been encountered by the market administrator in the administration of the present provisions. One of the most frequent problems concerned the written notices which pool plants are required to send to the market administrator indicating their willingness to ship certain amounts of milk or cream. In many cases such notice included offers to ship on days prior to the date the notice was mailed. Inasmuch as additional time would be consumed before the notice would be received by the market administrator and before the market administrator could make the offer public by transmitting it to handlers in the market, it is evident that such notices with respect to milk or cream offered on days prior to the date of mailing of the notice by the pool plant did not serve the purpose of the provision. It is provided therefore that only the milk which is offered for sale on days that are at least nine full days after the date on which the notice is postmarked shall be included in computing the amount offered. Although a seven day period was suggested by the proponents of the amendment, it appears from the testimony that a nine day period will be more workable.

Some difficulty has been experienced by the market administrator in attempting to determine from the wording used in the notice from the pool plant how much milk was being offered. Also, in computing amounts of milk or cream shipped and that offered for sale, it was felt that duplication should be avoided so that the same milk or cream could not be counted twice. Only such amount of butterfat or product pounds which is sold on any day as is in excess of the amount offered for sale on such day should be counted as the amount actually sold on such day, but the entire amount sold should be considered if such sale occurs on a day on which no offer is made. Appropriate language has been included in the proposal to meet these problems.

The present provision is silent as to what action, if any, should be taken with respect to offers which are not complied with after acceptance. Such offers would be meaningless and should not be counted in determining compliance with this provision. A provision is included which outlines specific procedure to be followed in such event. A proposal was made at the hearing that acceptance of an offer should be given at least 4 days prior to the date on which the milk is available for purchase. This time limit appears reasonable and should be adopted.

Provision also has been made to establish a specific method to be followed in computing required percentages of product pounds where the items involved are concentrated milk or condensed skim milk.

Inasmuch as application of the pool plant provision is on an individual plant basis and in order to prevent any evasion of the order by a suspended plant, a provision has been included under which suspension of a plant is not to be terminated or otherwise affected by transfer of ownership or operation.

To eliminate unnecessary language, the third proviso of § 941.66 (c) is deleted. This portion of paragraph (c) was effective only for the period from July 1 until September 1, 1951, and it is apparent that the necessity for this proviso no longer exists.

(9) The classification provisions should be revised to provide that in certain instances and under certain conditions milk diverted to unregulated plants outside the surplus milk manufacturing area be classified according to its utilization at the latter plant.

At the present time Order 41 provides that any milk moved as milk or skim milk in fluid form from a regulated plant to any plant located outside the surplus milk manufacturing area should be classified as Class I milk. It was proposed by a handlers' organization that during a period of work stoppage due to a labor dispute between employer and employee, milk or skim milk may be diverted to plants located outside the presently defined surplus milk manufacturing area, and at the request of the handler involved the market administrator should audit the utilization of such milk or skim milk and classify it according to its utilization at the unregulated plant.

The record shows through the testimony of a dealer witness that from time to time there occurs in the processing and bottling plants serving the Chicago market, work stoppages caused by or due to employer and employee labor disputes which interfere with the usual disposition of milk in the market. At times this may cause an almost total cessation of such distribution. As a rule these occurrences take place during the flush period of the year, for it is then that new contracts are negotiated between the handlers and unions representing the employees. Because of the large volume of milk which comes into the market in this period it is difficult to find a substitute outlet. The surplus facilities which are available and which are generally considered part of the market are not always situated to take care of the large quantities of extra reserve milk.

During these periods milk has had to be diverted in certain instances to plants outside the surplus milk manufacturing area. In such cases it has been the practice to find a place for the milk as close to the market as possible in order to save on transportation costs which the regulated plant must pay. While it is unusual for all processing and bottling plants in the Chicago market to be simultaneously affected so that there is a complete stoppage of work in all such plants, there are times when all the plants in the Chicago market are affected, if not on the same day, within days that are so close together as to make the problem of disposition acute. There are approximately 65 plants in the Chicago area operating under the same labor contracts. Proponents of the amendments agreed that it should only be effective if at least 50 percent of the Class I milk packaged by all bottling plants is represented in plants that have such work stoppages and no counter suggestions were made for the record.

There are bottling plants outside the city of Chicago which also operate under labor contracts. However these contracts are usually local in character and terminate at different times; hence, work stoppages in such plants, if and when they occur, do not generate the same problems as confront the Chicago bottling plants as the volume of milk involved in each case is such that the plants do not experience the same diffi-

culty in disposing of it. Separate consideration for such plants is not necessary.

It was suggested that the market administrator should make the determination as to when the required percentage of milk is affected and for what period, and that the plant to which such milk might be diverted must make its books and records available to the market administrator for audit to determine utilization of the milk. Otherwise, the diverted milk should be classified as Class I milk regardless of its utilization. Such provisions are appropriate and are adopted.

No adverse testimony was submitted at the hearing and it appears at this time the relief requested through the proposed amendment with certain modifications should be granted.

(10) The average wholesale price of cheese (cheddars) at Wisconsin primary markets as computed and reported by the Department should be substituted for the average wholesale price of cheese (Cheddars) on the Wisconsin Cheese Exchange in the computation of the basic formula and Class III milk prices.

It was testified that price quotations are reported four days a week (excluding Friday) for "Wisconsin primary markets" which are based on actual sales of cheese. There have been only a few instances in the past several years when sufficient sales have not been made on the Wisconsin primary markets on which to base a report. The Wisconsin Cheese Exchange at Plymouth, Wisconsin, on the other hand meets each Friday so that a quotation is available for only one day of each week. The volume of cheese sold on the Wisconsin Exchange is small in relation to the total volume of cheese sold on Wisconsin primary markets. Moreover, there have been numerous occasions when no sales of cheese were made through the Wisconsin Cheese Exchange and at times such condition has existed for a considerable period. It has been necessary therefore to use prices for weeks when no sales were reported which were derived from either bids or offers rather than from actual sales. For the purposes of the order the price of cheese at Wisconsin primary markets is the more representative report to use in reflecting prices actually received by manufacturers of cheese.

The types of transaction on which the two cheese quotations discussed above are based are similar—both are for the same type of cheese and are for cheese loaded for shipping at assembly points. The quotations differ, however, in that the price at primary markets includes a charge for certain services, such as paraffining and assembly, which is not included in the Exchange price but is made as a separate charge to the purchaser. Over the past two years the primary markets' price has averaged higher than the Exchange price by approximately 1.3 cents per pound and deduction of this amount should be made in adopting the primary market price.

Testimony in opposition to using the Wisconsin primary market data indicated that such price quotations might give undue weight to one sale since the highest price quoted by a handler could represent the sale of only one car of cheese, whereas the low price of that same handler might represent ten cars. While such a transaction could happen it is also true that the reverse could take place. Over a period of time such transactions should average out, particularly on the primary markets where there is a greater volume of cheese sales. It is concluded that the proposal should be adopted.

(11) The Chicago milk marketing area should not be expanded to include the township of Grafton.

It was proposed by one handler that the township of Grafton be included in the Chicago marketing area. In this connection it was testified that of the 90 milk producers in Grafton township under the Chicago order, 22 producers ship milk directly to Chicago marketing area plants while the other producers do not. It was contended that the 22 producers receive an extra 6 cents as an inner zone differential from the Chicago pool while handlers have to pay a "premium" of 6 cents to the other 68 producers (in order to maintain their milk supply) thus resulting in an inequitable situation. It was testified by other handlers that milk procurement in this area is highly competitive and that there are numerous milk plants located in at least five other townships adjacent to or in juxtaposition to Grafton township and competing for milk in the same general area. Producers are intermingled in the several townships close to Grafton township. It was further pointed out that if Grafton township is included in the marketing area the other townships should be included too, since without their inclusion there would be no substantial change in the problem described. In a decision issued April 27, 1951, the reasons justifying the extra payment for direct shipped milk and payments out of the pool were fully explained. To the extent that decision is applicable to the issue here described official notice is taken.

An extension of the marketing area would automatically qualify an added volume of milk for the inner zone differential which was established when Orders 69 and 41 were consolidated. The circumstances then existing and the history of the two orders which at that time justified such differential do not support an extension of the marketing area. It is concluded in view of the foregoing that the Chicago marketing area should not be expanded at this time.

(12) The provision (§ 941.68 (a)) requiring a plant that receives milk subject to the class price provisions of a marketing agreement or order for another marketing area to make payments into the producer-settlement fund under certain circumstances should be eliminated.

At the present time Order 41 provides in § 941.68 (b) for a method of determining under which order milk received by a plant from which Class I or Class II milk is sold in the Order 41 marketing area as well as one or more other Federal milk marketing areas shall be priced. If the Secretary determines that such milk is subject to the pricing provisions of an order other than Order 41, then, with one exception, the pricing provisions of the latter order do not apply. If Class I or Class II milk is disposed of in the Chicago marketing area and the applicable class price under the other order is less than the applicable Order 41 price, the difference must be paid into the producer-settlement fund.

There are sizeable quantities of Class I and Class II milk moving from plants serving the Chicago marketing area to other milk markets some of which are regulated by Federal milk marketing orders while others are not. Both packaged and bulk sales are made by Order 41 handlers to markets near Chicago and bulk sales are made to markets at greater distances. Of the nearby markets under Federal orders, Milwaukee, Wisconsin; Rockford-Freeport, Illinois; and South Bend, Indiana, receive substantial quantities of Class I and Class II milk from handlers under Order 41. On the other hand, handlers under the Chicago order are competing for milk supplies with handlers regulated by such three other orders. In addition, the extensive Chicago milk shed overlaps to some degree with the Quad Cities, Iowa; Dubuque, Iowa; and Minneapolis-St. Paul, Minnesota, milksheds. The latter markets also are regulated by Federal orders and at times have obtained supplies of Class I or Class II milk from Chicago handlers. These intermarket relationships have raised questions as to the application of the pooling, pricing and classification provisions under the various orders involved and as to the specific prices which should apply when milk is sold from one market to another.

Several other factors, such as processing and transportation costs (which are not covered by order provisions), in addition to class prices under the order, enter into a handler's cost of milk when sold in a different market. A reasonably close alignment of class prices under the orders concerned, taking into account the approximate cost of moving milk between markets, will maintain equity between the handlers affected. The provision in Order 41 that requires payment of money into the Chicago producer fund when the Chicago prices are higher than those under the federal order where the milk order where the milk originated is not necessary to this end and is deleted.

At the hearing it was proposed further that any milk shipped by an Order 41 handler to another Federal order market be priced at the applicable price in the receiving market when the price under the other order is higher than the Order 41 price. The added return would go to Chicago producers; in other words the Order 41 handler would be required to pay the Order 41 price or the other price whichever was higher.

In view of the considerations stated above such provision is not being adopted. Chicago handlers will continue to be required to pay the Order 41 price to Chicago producers for milk sold to other markets. If uneconomic shifts in sales or supplies of milk result there may be need for reexamining the provisions of the respective orders for the purpose of

bringing about closer alignment between them by amendment of either or both.

(13) (a) Revision should be made in the provisions that pertain to payments for other source milk and "overrun" to clarify the application of such provisions.

The order contains provisions requiring payments with respect to other source milk and "overrun" under certain circumstances. Under such provisions there is the possibility that other source milk which appears in the plant of a handler who buys milk only from other plants could fall under either of the two payment provisions. The rates of payment applicable under the two provisions are different. One rate is the applicable class price while the other rate is the difference between the price of the class in which the milk is found and the lowest class price announced by the market administrator. The administrative problem may be removed by providing that if no specific source is shown by the handler on his report with respect to other source milk received it shall be considered as overrun and the handler shall be so charged.

As a corollary change, the provision relating to net pool obligations of handlers should be revised to make it clear that under certain conditions a handler who does not buy milk directly from producers may have a "net pool obligation", as well as a handler who buys milk directly from producers.

(b) Milk moved to an unregulated bottling plant located inside the surplus milk manufacturing area which receives milk, skim or cream only from regulated plants, should be Class I when moved as fluid milk or skim milk and Class II when moved as fluid cream, except that any milk or milk product so moved that is in excess of the unregulated plant's Class I and Class II disposition as defined in the order shall be classified according to its utilization when adequate records are made available to the market administrator by the unregulated plant.

The order at present provides that any milk or milk product moved from a regulated plant to an unregulated plant not engaged in the manufacture of butter, cheese, evaporated milk, condensed milk or skim milk, whole milk powder, nonfat dry milk solids, casein, or ice cream powder shall be classified as Class I milk when moved in the form of fluid milk or fluid skim milk and as Class II milk when moved in the form of fluid cream.

It was proposed that when unregulated bottling plants which are inside the surplus milk manufacturing area and not engaged in processing manufactured dairy products receive only milk and milk products from regulated sources, the milk so moved be classified according to its utilization in the unregulated plant when adequate records of use are available. Testimony was given stating that there are several plants not under the regulation of the order which receive their entire supply of milk and cream for bottling purposes from Chicago approved plants. Under the present terms of the order, any milk moved to these plants is Class I milk even though some of this milk is normally returned from routes and has to be used in a lower class of use. It appears reasonable to liberalize the effect of the present requirement. The record contains no evidence or testimony contrary to this proposal. It is concluded that when an unregulated bottling plant inside the surplus milk manufacturing area receives its entire supply of milk, cream, and skim milk from a regulated plant, such products should be classified according to use at the unregulated plant.

(c) A definition of a commercial food processor should be included in the order.

The term "commercial food processor" is currently used in the language of Order 41 where it is intended to specify plants that do not process manufactured dairy products such as butter, cheese, condensed, evaporated, or dry milk products but that do use milk and milk products in the manufacture of processed foods. The order provides that milk and milk products moved to the establishment of a commercial food processor shall be classified as Class III or Class III (a) milk.

It is proposed that a specific definition be given the term "commercial food processor" which would read as follows: "Commercial food processor" means any person engaged in processing food other than milk or cream in fluid form or ice cream. It was pointed out in the testimony that the term commercial food processor was sufficiently broad to be construed to encompass firms engaged in bottling fluid milk and cream or the manufacture of ice cream. Inasmuch as milk and milk products defined as Class III and Class III (a) products in the order are allowed in those classes when moved to the establishment of a commercial food processor but are classified in the ultimate class of use when moved to a regulated bottling plant or ice cream plant, a definition of a commercial food processor should be specifically set forth in the order. In order to avoid possible confusion as to what constitutes a commercial food processor, it is concluded that the proposed definition be adopted.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on briefs. Briefs were filed on behalf of the Associated Milk Dealers, Inc., Baldwin Cooperative Creamery et al., The Borden Company of Fond du Lac, Wisconsin, The Borden Company of Chicago, Illinois; Beatrice Foods Company, Central Dairy Company et al., Consolidated Badger Cooperative et al., Ice Cream Manufacturers' Association of Cook County, Lake to Lake Dairy Cooperative, Midwest Dairymen's Company, Stephenson County Pure Milk Association and Pure Milk Products Cooperative. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the brief are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

Recommended marketing agreement and order. The following proposed amendments to the order are recommended as the detailed and appropriate means by which these conclusions may be carried out: The proposed amendments to the marketing agreement are not included because the regulatory provisions thereof would be the same as those contained in the proposed amendments to the order:

1. Add the following as § 941.17:

§ 941.17 *Commercial food processor.* "Commercial food processor" means any person engaged in processing food other than milk or cream in fluid form or ice cream.

2. Delete in § 941.40 the phrase "paragraph (b) of this section" and substitute therefor the reference "§ 941.41".

3. Delete § 941.40 (b) and substitute therefor the following:

(b) Any milk moved as milk or skim milk in fluid form, or as bulk condensed or concentrated milk containing not less than 2 percent nor more than 12 percent butterfat, from a regulated plant to any plant located outside the following area, referred to in this subpart as the "surplus milk manufacturing area", shall be classified as Class I milk, any milk so moved as cream in fluid form, frozen cream, other cream frozen, plastic cream, powdered cream, or any cream product in fluid form, including any bulk condensed, concentrated or evaporated milk product containing more than 12 percent butterfat, shall be classified as Class II milk, and any milk so moved as any other milk product containing butterfat shall be classified according to the form in which it leaves the plant of shipment: The State of Wisconsin; the counties of Stark, Marshall, Woodford, Livingston, Ford, Iroquois, Jo Daviess, Stephenson, Winnebago, Boone, McHenry, Lake, Carroll,

Ogle, De Kalb, Kane, Cook, Du Page, Whiteside, Lee, Rock Island, Henry, Bureau, Putnam, La Salle, Kendall, Grundy, Will, Kankakee, Peoria, McLean, Champaign, and Knox, in the State of Illinois; the counties of Benton, White, Cass, Miami, Howard, Carroll, Tippecanoe, Tipton, Clinton, Fountain, Warren, Parke, Vermillion, Vigo, Sullivan, Lake, Newton, Porter, Jasper, La Porte, Starke, Pulaski, St. Joseph, Marshall, Fulton, Kosciusko, Wabash, and Elkart, in the State of Indiana; the counties of Ottawa, Kent, Allegan, Berry, Calhoun, St. Joseph, Van Buren, Kalamazoo, Cass and Berrien, in the State of Michigan; and the county of Van Wert in the State of Ohio: *Provided*, That any handler who causes producer milk received to be delivered to a plant located outside the surplus milk manufacturing area during the period of a work stoppage at the regulated plant due to a labor dispute between employer and employee, may request the market administrator in writing to classify such milk according to its utilization at the unregulated plant and the milk so delivered shall be classified under § 941.41 according to its utilization at the latter plant if (1) the market administrator determines that not less than 50 percent of the volume of the Class I milk packaged by all pool plants as described in § 941.66 (a) is affected by such work stoppage, and (2) the unregulated plant makes its books and records of milk utilization available to the market administrator for audit verification purposes and the market administrator determines to his satisfaction that utilization of the milk so delivered can be established on the basis of adequate daily records. If the conditions described under subparagraphs (1) and (2) of this paragraph do not prevail the milk so delivered shall be classified as Class I milk.

4. Delete § 941.40 (d) and substitute therefor the following:

(d) Any milk moved as milk or skim milk in fluid form from a regulated plant to any unregulated plant located within the surplus milk manufacturing area which did not manufacture any of the products named in paragraph (c) of this section during the delivery period shall be classified as Class I milk, and any milk so moved as cream in fluid form shall be classified as Class II milk: *Provided*, That if such unregulated plant receives no milk, skim milk or cream from sources other than a regulated plant(s) and if satisfactory proof is furnished to the market administrator that any such milk, skim milk, or cream was in excess of the total amount used in Class I milk or Class II milk items, respectively (as defined in § 941.41) at the latter plant, such excess shall be classified according to its utilization.

5. Delete § 941.41 (c) (1) and substitute therefor the following:

(1) Condensed milk (sweetened or unsweetened) disposed of to commercial food processors located within the surplus milk manufacturing area, sweetened condensed milk in hermetically sealed cans, evaporated milk, whole milk powder, nonfat dry milk solids, and condensed skim milk (the products specified in this subparagraph are referred to in this subpart as Class III (a) milk):

6. Delete § 941.50 and substitute therefor the following:

§ 941.50 *Basic formula price.* The basic formula price to be used in computing the prices for Class I milk and Class II milk for each delivery period shall be the highest of the prices resulting from the formula set forth in paragraph (a) of this section and those set forth in paragraphs (c) and (d) of § 941.52 as computed for the delivery period next preceding.

(a) From the simple average of the daily prices paid per pound, using the mid point of any price range as one price, for Wisconsin State Brand Cheddars in cars or truckloads, f. o. b. Wisconsin assembling points, as reported by the United States Department of Agriculture for the trading days during the delivery period, subtract 1.3 cents, and then multiply by 2.7;

(ii) Multiply such result by 3.5.

6a. Delete from § 941.52 (c) the word "highest" and substitute therefor the word "higher".

6b. Delete from § 941.52 (c) the words "subparagraphs (1) and (2) of this paragraph" and substitute therefor the words "subparagraph (1) of this paragraph".

6c. Delete § 941.52 (c) (2).

7. Delete in § 941.61 the reference "§ 971.70" and substitute therefor the reference "§ 941.70".

8. Replace the period (.) at the end of § 941.61 with a colon (:) and add the following proviso: "*Provided*, That if no source is indicated by the handler which may be verified by the market administrator, the other source milk shall be deemed to be 'overrun' and subject to the provisions of § 941.62 rather than to the conditions of this section."

9. Delete the third proviso of § 941.66 (c).

10. Delete § 941.67 and substitute therefor the following:

§ 941.67 *Suspension of pool plants.* (a) Any plant described in § 941.66 (b) shall be suspended automatically as a pool plant, such suspension to be effective during each of the delivery periods of March through July inclusive of the next succeeding year, unless:

(1) At least 50 percent of the butterfat in milk or at least 50 percent of the pounds of milk received from producers at such plant during each of the delivery periods of September, October and November is (i) shipped as milk, skim milk or cream in fluid form to a regulated plant(s), or (ii) disposed of from such plant as Class I milk or Class II milk within the surplus milk manufacturing area other than to a regulated plant; or

(2) Such plant gives notice to the market administrator in writing that during each of the delivery periods of September, October and November, it is willing to ship an amount of milk in fluid form to any regulated plant(s) which together with such amount of milk, skim milk and cream as it disposes of as Class I milk or Class II milk within the surplus milk manufacturing area (including shipments to any such plant(s)) in said delivery period shall include not less than 50 percent of the butterfat or not less than 50 percent of the pounds of milk received from producers during the delivery period to which said offer applies: *Provided*, That

(i) Said notice shall contain at least the following information; the specific days on which the milk will be available; the amount of milk available on each of such days with the butterfat content thereof, and if such plant intends to offer its entire supply of milk for a particular day, the offer shall so state; and the price to be charged for the milk offered and the terms of sale;

(ii) Only those amounts of milk offered for sale on days that are at least 9 full days after the date on which said notice is postmarked shall be included in computing the total amount offered for the delivery period;

(iii) Only such amount of butterfat or product pounds which is sold on any day within the surplus milk manufacturing area as Class I milk or Class II milk as is in excess of the amount offered for sale on said day by said notice shall be considered in computing the amount actually sold on such day, but the entire amount of butterfat or product pounds so sold shall be considered if such sale occurs on a day on which no offer is made;

(iv) Only such amount of milk offered by said notice on any day shall be credited to the offer as is not in excess of the amount of milk received from producers on said day.

(3) Upon receipt of said notice the market administrator shall make the offer and terms thereof public by transmitting the same to all handlers not later than one business day after receiving the notice.

(4) Any handler who desires to accept an offer shall notify the offering plant, or the person whom the offering handler has designated as his agent to receive acceptance, of his willingness to accept such offer at least 4 days prior to the date on which the milk is available for purchase. If the offering plant or its agent refuses to sell and deliver the milk to the handler accepting the offer and such handler so notifies the market administrator, he shall verify the refusal to sell by communicating with the offering plant or its agent. If upon subsequent audit and investigation the market administrator determines that such milk had not actually been shipped to a regulated plant serving the marketing area, the offer for said day shall be considered null and void, and in determining the plant's compliance with this section consideration shall be given only to sales occurring on such day.

(5) In computing required percentages of milk, skim milk and cream on a product pound basis any sales of concentrated milk or condensed skim milk to a regulated plant shall be based upon the quantity of the milk or skim milk used in its production rather than upon the quantity of concentrated milk or condensed skim milk sold.

(b) The market administrator shall maintain at his office a list of plants (including plant location and name of operator) suspended pursuant to this

section which shall be made available to any interested person upon request and which he may from time to time transmit to all handlers in the market.

(c) Any milk or milk product received at a regulated plant from a plant during any period of suspension pursuant to this section shall be other source milk.

(d) Suspension of any pool plant shall not be terminated or affected by transfer of ownership through sale or otherwise.

11. Delete § 941.68 and substitute therefor the following:

§ 941.68 *Milk under more than one Federal order.* (a) Milk or any milk product disposed of within the Chicago, Illinois, marketing area (other than to a regulated plant) as any item of Class I milk or Class II milk from a plant receiving milk subject to the class price provisions of a marketing agreement or order issued pursuant to the act for another marketing area shall not be subject to the class price provisions of this order or to §§ 941.80 through 941.88.

12. Delete that portion of § 941.70 prior to paragraph (a) and substitute the following:

§ 941.70 *Net pool obligation(s) of handlers.* On or before the 14th day of each delivery period the market administrator shall examine for mathematical correctness and obvious errors the report of receipts and utilization submitted by each handler for the preceding delivery period and shall make such corrections as such examination shall indicate to be appropriate. A separate net pool obligation for Grade A milk and Grade B milk shall be computed for each handler (based upon his reports as corrected), as follows:

Filed at Washington, D. C., this 8th day of July 1952.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 52-7634; Filed, July 11, 1952; 8:49 a. m.]

NOTICES

DEPARTMENT OF STATE

[Public Notice 108]

ORGANIZATION

MISCELLANEOUS AMENDMENTS

Pursuant to the requirements of section 3 (a) (1) of the Administrative Procedure Act (5 U. S. C. 1002; 60 Stat. 238), Public Notice 34 (15 F. R. 1461) regarding the central organization of the Department of State is amended as follows:

(a) The function performed by the Deputy Under Secretary as the Department's National Security Council consultant is transferred to the Counselor.

(b) The Counselor is no longer a member of the Department's Policy Planning Staff.

(c) The position of Director, Mutual Defense Assistance Program (Public Notice 49 (15 F. R. 3668)) is abolished and there is established the position of Special Assistant to the Secretary for Mutual Security Affairs, who: (1) Coordinates all activities within the Department relating to programs authorized by the Mutual Security Act of 1951.

(2) Serves as principal representative of the Department in matters relating to the Mutual Security Program and in dealings with the Director for Mutual Security.

(3) Represents the Department in preparation and presentation to Congress of the Mutual Security Program legislation.

(4) Assures that the Department's work relating to the Mutual Security Program is properly performed.

(5) Assures the establishment and maintenance of effective working relationships with other Government agencies on matters relating to the Mutual Security Program.

(d) The title of the Office of Consular Affairs is changed to Office of Security and Consular Affairs.

(e) The Office of International Trade Policy is abolished, and there are established under the Assistant Secretary for Economic Affairs (1) the Office of International Materials Policy with responsibilities for the formulation of policy with respect to the import and export of commodities affecting foreign policy and foreign relations, and (2) the Office of Economic Defense and Trade Policy with responsibility for economic defense, security, and general and emergency international trade policies.

(f) The United States International Information and Educational Exchange Program (USIE) is redesignated the United States International Information Administration (USIIA). The new organization is headed by an Administrator who is accountable directly to the Secretary and Under Secretary for the planning and execution of the Department's programs under the Smith-Mundt Act (Public Law 402, 80th Congress) and other foreign information activities for the administration of which the Secretary is responsible, and who: (1) Serves as Chairman of the Psychological Operations Coordinating Committee.

(2) Directs the development of international information and educational exchange policies.

(3) Directs the planning and execution of all International Information Administration programs at home and abroad.

(g) By a redefinition of his functions, the Assistant Secretary for Public Affairs: (1) Participates in the formulation of policy from a standpoint of public opinion factors.

(2) Develops policies on public information and directs the execution of programs designed to keep the United States public informed on international affairs.

(3) Serves as the staff officer to the Secretary responsible for the approval of major International Information Administration policy guidances.

(4) Develops policies for and supervises the conduct of a program of research on American policy.

(5) Develops policies on substantive matters relating to United States participation in UNESCO, subject to review by the Bureau of United Nations Affairs.

(6) Assures the maintenance of liaison with American mass communications industries.

Issued: June 25, 1952.

For the Secretary of State.

WALTER K. SCOTT,
Deputy Assistant Secretary.

[F. R. Doc. 52-7628; Filed, July 11, 1952; 8:47 a. m.]

[Public Notice 109]

AMERICAN NATIONALS

CLAIMS UNDER PROVISIONS OF TREATY OF PEACE WITH JAPAN

Notice is hereby given that under Article 15 (a) of the peace treaty between the Allied Powers and Japan, which came into force on April 28, 1952, the Japanese Government is required to return all property of Allied Powers and their nationals within the present territorial limits of Japan, and in cases where such property was within Japan on December 7, 1941, and cannot be returned or has been damaged, to provide compensation to property owners for their loss or damage sustained as a result of the war within Japan in accordance with terms of the Allied Powers Property Compensation Law (Japanese Law No. 264 of 1951).

In order to assist American nationals who desire to file applications under the treaty for the return of their property in Japan or, in appropriate instances, claims for compensation under the Allied Powers Property Compensation Law, the Department of State has prepared, after consultation with authorities of the Japanese Government, a memorandum regarding the manner in which such applications or claims should be prepared and filed. A copy of the memorandum is being sent to all American nationals who, on the basis of information available to the Department of State have indicated a desire to file applications for the return of property or claims for compensation. American nationals who desire to file such applications or claims but have not previously communicated with the Department may obtain copies of the memorandum from the Office of the Legal Adviser, Department of State, Washington 25, D. C.

Applications for the return of property must be submitted by this Government to the Japanese Government on or before January 28, 1953. Claims for compensation must be submitted by this Government to the Japanese Government on or before October 28, 1953. However, to insure proper consideration of applications for restitution of property and claims for compensation, they

should be filed with the Department of State with the least possible delay.

Issued: July 1, 1952.

For the Acting Secretary of State.

JACK B. TATE,
Acting Legal Adviser.

[F. R. Doc. 52-7629; Filed, July 11, 1952; 8:47 a. m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[466.23]

EXTRACTS OF CHLOROPHYLL OR CHLOROPHYLL DERIVATIVES

TARIFF CLASSIFICATION

JULY 2, 1952.

It appears probable that a correct interpretation of paragraph 5, Tariff Act of 1930, requires that certain extracts of chlorophyll and extracts of chlorophyll derivatives be classified under paragraph 5 as chemical compounds dutiable at the modified rate of 12½ percent ad valorem rather than dutiable at the modified rate of 7½ percent ad valorem under paragraph 38.

Information received by the Bureau indicates that water soluble forms of chlorophyll and chlorophyllin are chiefly used for deodorizing and for medicinal and therapeutic purposes. Accordingly, pursuant to § 16.10a (d), Customs Regulations of 1943 (19 CFR 16.10a (d)), notice is hereby given that the existing uniform practice of classifying such and similar merchandise under paragraph 38 as extracts and preparations of vegetable origin used for dyeing, coloring, staining, or tanning is under review in the Bureau of Customs.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of this merchandise which are submitted in writing to the Bureau of Customs, Washington 25, D. C. To assure consideration of such communications they must be received in the Bureau not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearings will be held.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[F. R. Doc. 52-7658; Filed, July 11, 1952; 8:54 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

KINGS RIVER DIVISION, CENTRAL VALLEY PROJECT, CALIFORNIA

FIRST FORM RECLAMATION WITHDRAWAL; REVOCATION

JUNE 16, 1952.

Pursuant to the authority delegated by Departmental Order No. 2515 of April 7, 1949 (14 F. R. 1937), I hereby revoke First Form Reclamation Withdrawal order of February 19, 1952 (17 F. R. 1904), insofar as said order affects the following described land; provided, however, that such revocation shall not affect the withdrawal of any other lands by said order or affect any other orders withdrawing or reserving the land hereinafter described:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 12 S., R. 29 E.,
Sec. 1, NE¼SE¼, SW¼SE¼;
Sec. 11, E½SE¼;
Sec. 12, NW¼NE¼, NE¼NW¼, SW¼NW¼.

The above area aggregates 280 acres.

G. W. LINEWEAVER,
Assistant Commissioner.

I concur. The records of the Bureau of Land Management will be noted.

The lands described were reserved by the act of March 4, 1940 (54 Stat. 41) as part of the Kings Canyon National Park.

WILLIAM ZIMMERMAN, Jr.,
Associate Director.

JULY 8, 1952.

[F. R. Doc. 52-7616; Filed, July 11, 1952; 8:45 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 5595]

TRANSPORTES AEREOS NACIONALES, S. A.; PROPOSAL TO DESIGNATE SAN PEDRO SULA AS A COTERMINAL POINT

NOTICE OF HEARING

In the matter of the application of Transportes Aereos Nacionales, S. A., for amendment of its foreign air carrier permit under section 402 of the Civil Aeronautics Act of 1938, as amended, so as to designate San Pedro Sula, Honduras, as a coterminal point on its foreign route.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 402 and 1001 of said act, that a hearing in the above-entitled proceeding is assigned to be held on July 21, 1952, at 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Curtis C. Henderson.

Without limiting the scope of the issues presented by the application particular attention will be directed to the following questions:

1. Will it be in the public interest to amend the foreign air carrier permit held by Transportes Aereos Nacionales, S. A., so as to designate San Pedro Sula, Honduras, as a coterminal point on its foreign route?

2. Will the requested authorization be consistent with the obligations assumed by the United States in any treaty, convention or agreement that may be in force between the United States and Honduras or any other foreign country?

For further details as to the requested amendment and the issues in connection therewith reference is made to the application on file with the Civil Aeronautics Board.

Notice is further given that any person other than a party of record desiring to be heard in this proceeding must file with the Board on or before July 21, 1952, a statement setting forth the pertinent issues of fact or law which he desires to controvert or support, and said person then may appear and participate at the hearing under the provisions of § 302.6 (a) of the Board's Procedural Regulations.

Dated at Washington, D. C., July 8, 1952.

By the Civil Aeronautics Board.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 52-7620; Filed, July 11, 1952; 8:46 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of the Administrator

[Determination No. 115]

WILLISTON, NORTH DAKOTA; CRITICAL DEFENSE HOUSING AREA

APPROVAL OF EXTENT OF RELAXATION OF CREDIT CONTROLS

SECTION 1. *Authority.* This action is taken pursuant to the authority conferred by the Housing and Rent Act of 1947, as amended (Pub. Law 129, 80th Cong., as amended by Pub. Laws 422 and 464, 80th Cong., Pub. Laws 31, 574 and 880, 81st Cong.; and Pub. Laws 8, 69 and 96, 82d Cong.); and more particularly section 204 (m) of Pub. Law 96; and the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong.; as amended by Pub. Law 96, 82d Cong.); and Executive Order 10161 of September 9, 1950, and Executive Order 10276 of July 31, 1951; and as implemented by Economic Stabilization Agency Order No. 9 of July 31, 1951.

SEC. 2. *Determination.* In view of the joint determination and certification by the Acting Secretary of Defense and the Acting Director of Defense Mobilization, dated July 7, 1952, that the Williston, North Dakota, area (this area consists of Williams County and that part of McKenzie County north of the south line of Township 150, all in North Dakota), is a critical defense housing area, and in view of the defense housing program announced for the said area on June 20, 1952, by the Administrator of the Housing and Home Finance Agency, with the concurrence of the Board of Governors of the Federal Reserve System, it is hereby determined, after due consideration of relevant factors, that real estate construction credit controls have been relaxed in the Williston, North Dakota, critical defense housing area to the extent necessary to encourage construction of housing for defense workers and military personnel.

ROGER L. PUTNAM,
Administrator.

JULY 10, 1952.

[F. R. Doc. 52-7763; Filed, July 11, 1952; 10:37 a. m.]

Office of Price Stabilization

[Ceiling Price Regulation 32, Supplementary Regulation 2, Section 3, Special Order 19]

PLAYA DEL REY FIELD, LOS ANGELES COUNTY, CALIFORNIA

CRUDE PETROLEUM CEILING PRICES ADJUSTED ON AN IN-LINE BASIS

Statement of considerations. This special order adjusts the ceiling price for the sale of crude petroleum produced from the Playa Del Rey Field, Los Angeles County, California.

The Office of Price Stabilization has been requested to eliminate the differentials heretofore imposed upon crude petroleum produced from the Playa Del Rey Field, Los Angeles County, California. During the base period there was a lack of competitive factors and as a result, the crude petroleum produced from this field was sold at a lower price than that paid for crude petroleum of comparable quality produced in this same general area. It appears that this condition has now been eliminated and these differentials should no longer be imposed.

From the information available to this office, it appears that the adjusted price will be in line with the ceiling price of comparable crude petroleum produced in this same area. This price is :

Gravity	*Price*	*Gravity*	*Price*
17–17.9	$1.78	21–21.9	$1.98
18–18.9	1.83	22–22.9	2.02
19–19.9	1.88	23–23.9	2.08
20–20.9	1.93	24–24.9	2.14

Special provisions. For the reasons set forth in the Statement of Considerations and pursuant to the provisions of Section 3 of Supplementary Regulation 2 to Ceiling Price Regulation 32, it is ordered:

1. That the ceiling price at the lease receiving tank for crude petroleum produced from the Playa Del Rey Field, Los Angeles County, California shall be:

Gravity	*Price*	*Gravity*	*Price*
17–17.9	$1.78	21–21.9	$1.98
18–18.9	1.83	22–22.9	2.02
19–19.9	1.88	23–23.9	2.08
20–20.9	1.93	24–24.9	2.14

2. All provisions of Ceiling Price Regulation 32, except as inconsistent with the provisions of this order, shall remain in full force and effect as to the commodities covered by this order.

3. This order may be amended, modified, or revoked at any time by the Director of Price Stabilization.

Effective date. This special order shall become effective on July 9, 1952.

ELLIS ARNALL,
Director of Price Stabilization.

JULY 8, 1952.

[F. R. Doc. 52-7600; Filed, July 8, 1952; 4:55 p. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 10144]

LAFOLLETTE BROADCASTING CO., INC.

ORDER SCHEDULING HEARING

In re application of LaFollette Broadcasting Company, Inc., LaFollette, Tennessee, Docket No. 10144, File No. BP-8033; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of July 1952;

The Commission having under consideration the above-entitled application, which was designated for hearing on February 27, 1952; and

It appearing, that no date was previously scheduled by the Commission in this proceeding;

It is ordered, That the hearing in the above-entitled proceeding be held at 10:00 a. m., August 7, 1952, in Washington, D. C.

Released: July 3, 1952.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 52-7626; Filed, July 11, 1952; 8:46 a. m.]

[Docket No. 10181]

MCLENNAN BROADCASTING CO.

ORDER SCHEDULING HEARING

In re application of L. E. Richards, doing business as McLennan Broadcasting Company, Waco, Texas, Docket No. 10181, File No. BP-8031; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of July 1952;

The Commission having under consideration the above-entitled application, which was designated for hearing on April 17, 1952; and

It appearing, that no date was previously scheduled by the Commission in this proceeding;

It is ordered, That the hearing in the above-entitled proceeding be held at 10:00 a. m., August 4, 1952, in Washington, D. C.

Released, July 3, 1952.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 52-7625; Filed, July 11, 1952; 8:46 a. m.]

[Docket No. 10195]

MT. PLEASANT BROADCASTING CO. (KIMP)

ORDER SCHEDULING HEARING

In re application of Winston O. Ward, doing business as Mt. Pleasant Broadcasting Company (KIMP), Mt. Pleasant, Texas, Docket No. 10195, File No. BP-8039; for construction permit.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of July 1952;

The Commission having under consideration the above-entitled application, which was designated for hearing on May 14, 1952; and

It appearing, that no date was previously scheduled by the Commission in this proceeding;

It is ordered, That the hearing in the above-entitled proceeding be held at 10:00 a. m., August 14, 1952, in Washington, D. C.

Released: July 3, 1952.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 52-7627; Filed, July 11, 1952; 8:47 a. m.]

[Docket No. 10228]

KEY BROADCASTING SYSTEM, INC. (WKBS)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re Application of Key Broadcasting System, Inc. (WKBS), Oyster Bay, New York, File No. BML-1502; Docket No. 10228, for modification of license.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of July 1952;

The Commission having under consideration the above-entitled application of Key Broadcasting System, Incorporated, for modification of the license for Station WKBS to change station location from Oyster Bay, New York to Oyster Bay, New York-Stamford, Connecticut;

It appearing, that Key Broadcasting Company, Inc. is legally, technically, financially, and otherwise qualified to operate Station WKBS as proposed, but that the proposed operation of WKBS may not comply with the requirements of the Commission rules and Standards of Good Engineering Practice with particular reference to the coverage of the city of Stamford, Connecticut.

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified by subsequent order, upon the following issue:

1. To determine whether the operation of Station WKBS as proposed would furnish satisfactory coverage to the city of Stamford, Connecticut, in compliance with § 3.30 of the Commission rules and related provisions of the Standards of Good Engineering Practice.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 52-7624; Filed, July 11, 1952; 8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. E-6428, E-6429]

KANSAS CITY POWER & LIGHT CO. ET AL.

NOTICE OF ORDERS AUTHORIZING AND APPROVING DISPOSITION AND MERGER OF FACILITIES

JULY 8, 1952.

In the matters of Kansas City Power & Light Company and Eastern Kansas

Utilities, Inc., Docket No. E-6428; Kansas Gas and Electric Company and Eastern Kansas Utilities, Inc., Docket No. E-6429.

Notice is hereby given that on July 7, 1952, the Federal Power Commission issued its orders entered July 3, 1952, authorizing and approving disposition and merger or consolidation of facilities in the above-entitled matters.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-7636; Filed, July 11, 1952; 8:51 a. m.]

[Docket No. E-6442]

MOUNTAIN STATES POWER CO.

NOTICE OF APPLICATION

JULY 8, 1952.

Take notice that on July 7, 1952, an application was filed with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, by Mountain States Power Company, a corporation organized under the laws of the State of Delaware and doing business in the States of Idaho, Oregon, Montana, and Wyoming, with its principal business office at Albany, Oregon, seeking an order authorizing the issuance and sale of 200,000 shares of Common Stock, par value $7.25 per share, at competitive bidding by publicly inviting sealed written proposals for the purchase of all such shares. Applicant proposes to issue said Common Stock approximately 7 days after acceptable bid for same; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 22d day of July 1952, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-7648; Filed, July 11, 1952; 8:52 a. m.]

[Docket Nos. G-1473, G-1649, G-1693, G-1727, G-1737]

TEXAS EASTERN TRANSMISSION CORP. ET AL.

NOTICE OF OPINION

JULY 8, 1952.

In the matters of Texas Eastern Transmission Corporation, Docket No. G-1693; Alabama-Tennessee Natural Gas Company, Docket No. G-1473; Tennessee Gas Company, Docket No. G-1649; Shippensburg Gas Company, Docket No. G-1727; Consumers Gas Company, Docket No. G-1737.

Notice is hereby given that on July 3, 1952, the Federal Power Commission issued its opinion and order entered July 3, 1952 in the above-entitled matters issuing certificates of public convenience and necessity to Texas Eastern Transmission Corporation, Docket No. G-1693 and Shippensburg Gas Company, Docket No. G-1727; and denying applications by Alabama-Tennessee Natural Gas Company, Docket No. G-1473; Tennessee Gas Company, Docket No. G-1649; and Consumers Gas Company, Docket No. G-1737.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-7637; Filed, July 11, 1952; 8:50 a. m.]

[Docket No. G-1944]

FREDERICK GAS CO., INC.

ORDER DENYING REQUEST FOR SHORTENED PROCEDURE AND FIXING DATE OF HEARING

JULY 8, 1952.

On April 22, 1952, Frederick Gas Company, Inc. (Applicant), a Maryland corporation having its principal place of business in the City of Frederick, Maryland, filed an application for a certificate of convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain natural-gas pipeline facilities, all as more fully described in its application on file with the Commission and open to public inspection.

Due notice of filing such application has been given, including publication in the FEDERAL REGISTER on May 8, 1952 (17 F. R. 4248). Applicant has requested that its application be heard under the shortened procedure provided by § 1.32 (b) (18 CFR 1.32 (b)).

On May 20, 1952, the Washington Gas Light Company of Maryland, Inc., filed a petition to intervene in the above-entitled matter. No answer or protest has been filed by the Applicant. By separate order of this date, the petition of Washington Gas Light Company of Maryland, Inc., is being granted.

The Commission finds: This proceeding is not a proper one for disposition under the provisions of § 1.32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure.

The Commission orders:

(A) The request of Frederick Gas Company, Inc., that its application in Docket No. G-1944 be heard under the shortened procedure provided by § 1.32 (b) of the Commission's rules of practice and procedure (18 CFR 1.32 (b)) be and the same is hereby denied.

(B) Pursuant to authority contained in and by virtue of the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a public hearing be held commencing on July 23, 1952, at 10:00 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by the application.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Date of issuance: July 8, 1952.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-7636; Filed, July 11, 1952; 8:50 a. m.]

[Docket No. G-1980]

NEW YORK STATE NATURAL GAS CORP.

NOTICE OF APPLICATION

JULY 8, 1952.

Take notice that New York State Natural Gas Corporation (Applicant), a New York corporation with its principal office in New York City, New York, filed on June 25, 1952, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of the following described natural-gas facilities:

(1) 20 miles of 16-inch pipeline (designated the "Driftwood Line") to extend from the southerly end of Applicant's Line No. 280 near the Leidy Compressor Station, Leidy Township, Clinton County, Pennsylvania, in a southwesterly direction to a point in or near the Driftwood Gas Field in Gibson Township, Cameron County, Pennsylvania.

(2) 75 miles of 20-inch pipeline (designated the "Driftwood-Valley Gate Line") to extend from the southerly end of the Driftwood line to a point in Valley Township, Armstrong County, Pennsylvania, known as Valley Gate, at which it will connect with Applicant's principal dual line transmission system.

(3) 970 feet of 20-inch pipeline to connect the Sabinsville Compressor Station with transmission lines No. 2, 4 and 34.

The application recites that the lines proposed constitute the major part of a new looping program and is intended to supersede a substantial part of a looping program authorized In the Matter of New York State Natural Gas Corporation, Docket No. G-1824. Applicant claims the proposed facilities will enable it to meet the estimated 1954 requirements of its customers. Additionally it is claimed that the proposed facilities will make available to Applicant prospective supplies of gas developed in the area traversed by the facilities.

The total over-all capital cost of the facilities described as estimated to be $5,332,506, which Applicant plans to finance by the sale of its securities to its parent, Consolidated Natural Gas Company.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before the 28th day of July 1952.

The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-7649; Filed, July 11, 1952; 8:52 a. m.]

[Docket No. G-1982]

TREASURE STATE PIPE LINE CO.

NOTICE OF APPLICATION

JULY 8, 1952.

Take notice that Treasure State Pipe Line Company (Applicant), a Montana corporation, address, Great Falls, Montana, filed on June 27, 1952, an application for permit pursuant to section 3 of the Natural Gas Act, authorizing the exportation of natural gas from the United States into the Dominion of Canada.

Applicant, a wholly owned subsidiary of Hard Rock Oil Co., proposes to export natural gas produced in the Cut Bank Field in Glacier and Toole Counties, in Montana, and purchased from its parent, Hard Rock Oil Company, into Canada for sale to Coutts Gas Company, Limited, to be resold and distributed in the town of Coutts, Alberta, Canada. Applicant proposes to install a valve connection and meter on its existing facilities at a point on the international boundary for the delivery of natural gas to Coutts Gas Company, Limited. Applicant states that the estimated total number of meter connections possible in the town of Coutts, Alberta is 95.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 28th day of July 1952. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-7650; Filed, July 11, 1952; 8:53 a. m.]

[Docket No. G-1983]

TREASURE STATE PIPE LINE CO.

NOTICE OF APPLICATION

JULY 8, 1952.

Take notice that Treasure State Pipe Line Company (Applicant), a Montana Corporation, address, Great Falls, Montana filed, on June 27, 1952, an application for a Presidential Permit pursuant to Executive Order No. 8202, dated July 13, 1939, authorizing the construction, maintenance, operation, and connection at the international boundary of facilities for the exportation of natural gas from the United States into the Dominion of Canada.

Applicant, a wholly owned subsidiary of Hard Rock Oil Co., proposes to construct, maintain and operate a valve connection and meter at a point on its existing pipeline facilities along the international boundary where said facilities will connect with the distribution facilities of Coutts Gas Company, Limited, and at that point to sell and deliver natural gas produced in the Cut Bank Gas Field of Montana, for resale and distribution in the town of Coutts, Alberta, Canada. Applicant proposes to purchase the natural gas to be exported from its parent, Hard Rock Oil Co.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C. in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 28th day of July 1952. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-7651; Filed, July 11, 1952; 8:53 a. m.]

[Docket No. G-1989]

MICHIGAN GAS STORAGE CO.

NOTICE OF APPLICATION

JULY 8, 1952.

Take notice that Michigan Gas Storage Company (Applicant), a Michigan corporation with its principal place of business at Jackson, Michigan, filed on June 30, 1952, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make charges against the following customers of Panhandle Eastern Pipe Line Company: (1) Battle Creek Gas Company, Battle Creek, Michigan; (2) Michigan Gas Utilities Company, Coldwater, Michigan; (3) Albion Gas Light Company, Albion, Michigan; (4) Southeastern Michigan Gas Company, Port Huron, Michigan; (5) Albion Malleable Iron Company, Albion, Michigan; (6) Michigan Seamless Tube Company, South Lyon, Michigan; (7) Mueller Brass Company, Port Huron, Michigan, and (8) Corning Glass Company, Albion, Michigan, for proportionate part of cost of operation of Applicant's Freedom Junction Compressor Station.

The application recites that Consumers Power Company now bears all compressor costs for all gas deliveries through the Freedom Junction Station of Applicant, and that since Consumers Power Company will continue to bear all compression costs for gas delivered through Freedom Station either (a) for storage company or (b) for delivery to Consumers Power Company it is proposed to eliminate charges to Consumers Power Company for compression costs involved in delivering gas to others by making a flat rate charge of 1.33 cents per Mcf of gas delivered through Freedom Station to or for the account of others than Applicant, or its requirements customer, Consumers Power Company. Applicant states it proposes to have made effective a proposed schedule of charges to be designated as Rate Schedule T-1 to apportion the entire actual cost of compression developed at Freedom Station among the various gas utilities and other customers of Panhandle benefiting therefrom.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10) on or before the 28th day of July 1952.

The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-7652; Filed, July 11, 1952; 8:54 a. m.]

[Docket No. IT-5519]

BONNEVILLE PROJECT, COLUMBIA RIVER, WASHINGTON-OREGON

NOTICE OF ORDER CONFIRMING AND APPROVING RATE SCHEDULE

JULY 8, 1952.

Notice is hereby given that on July 3, 1952, the Federal Power Commission issued its order entered July 1, 1952, confirming and approving revised rate schedule in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 52-7639; Filed, July 11, 1952; 8:51 a. m.]

[Project No. 2105]

PACIFIC GAS AND ELECTRIC CO.

NOTICE OF APPLICATION FOR LICENSE

JULY 8, 1952.

Public notice is hereby given that Pacific Gas and Electric Company, of San Francisco, California, has made application for license pursuant to the provisions of the Federal Power Act (16 U. S. C. 791-825r) for a proposed hydroelectric project, designated as Project No. 2105, on North Fork Feather River and on Butt Creek, one of its tributaries, in Plumas County, California, and affecting lands of the United States in Plumas and Lassen National Forests. The proposed project, to be known as the Butt Valley—Caribou No. 2 Project, would consist of an intake structure each at Lake Almanor Reservoir (Intake No. 1A) and at Butt Valley Reservoir (Intake No. 2A); a pressure tunnel (Tunnel No. 1A) about 11,000 feet long from Lake Almanor Intake No. 1A to the Butt Valley Powerhouse penstock; a pressure tunnel (Tunnel No. 2A) about 9,200 feet long from Butt Valley Reservoir Intake No. 2A to Caribou No. 2 Powerhouse penstock; a penstock leading into each powerhouse; a surge tank for each conduit system; Butt Valley Powerhouse, at head of Butt Valley Reservoir, to house one vertical turbine-generator unit of 48,000 kva capacity; Caribou No. 2 Powerhouse, on right bank of North Fork of Feather River, to house two vertical turbine-generator units each of 63,000 kva capacity; a substation and switchyard at each powerhouse; one 220 kv transmission line about 8 miles long to extend from Butt Valley plant to the Caribou No. 2 plant; a short 220 kv tap line to extend from Caribou No. 2 Powerhouse to applicant's transmission system; miscellaneous hydraulic and electrical appurtenances and project works including a cross-connection, near Lake Almanor intakes, between existing pressure Tunnel No. 1 and proposed pressure Tunnel No. 1A, and a bypass pipe from pressure Tunnel No. 1A to Butt Creek.

Any protest against the approval of this application or request for any action thereon, with the reason for such protest or request, and the name and address of the party or parties so protesting or requesting, should be submitted on or before August 26, 1952, to the Fed-

eral Power Commission at Washington 25, D. C.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 52-7653; Filed, July 11, 1952; 8:54 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 27208]

BRICK FROM GILCHRIST, ILL., TO SOUTHERN TERRITORY

APPLICATION FOR RELIEF

JULY 9, 1952.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for carriers parties to his tariff ICC No. 736.

Commodities involved: Brick and refractories and related articles, carloads.

From: Gilchrist, Ill.

To: Southern territory.

Grounds for relief: Competition with rail carriers, circuitous routes, to maintain grouping.

Schedules filed containing proposed rates: R. G. Raasch, Agent, ICC No. 736, supl. 7.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 52-7630; Filed, July 11, 1952; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

ODELL & CO.

MEMORANDUM OPINION AND ORDER PERMITTING WITHDRAWAL OF REGISTRATION AND DISCONTINUING PROCEEDING

JULY 3, 1952.

In the matter of Herbert N. Odell d/b/a Odell & Co., 75 Federal Street, Boston, Massachusetts, and 57 Hyde Street, Newton Highlands, Massachusetts.

This is a proceeding under section 15 (b) of the Securities Exchange Act of 1934 ("the act") to determine whether the broker-dealer registration of Herbert N. Odell, doing business as Odell & Co., should be revoked.[1]

The proceeding was instituted by a notice and order for hearing which alleges that registrant violated section 17 (a) of the act and Rule X-17A-5 adopted thereunder in that he did not file with us the required reports of his financial condition.

A copy of the notice and order was sent by registered mail to 75 Federal Street, Boston, Massachusetts, the address designated in registrant's application for registration for the receipt of notices to him, and was also published in the FEDERAL REGISTER. The mailed copy was returned to us by the Post Office Department bearing the notation, "Unknown," and registrant did not appear at the scheduled hearing. However, subsequent thereto a representative of this Commission succeeded in communicating directly with him and advised him of the institution of these proceedings. Thereafter registrant by letter advised that he has not been engaged in the securities business since 1942 and requested that his registration be withdrawn.

Registrant's registration as a broker-dealer became effective January 1, 1936, and has not been withdrawn, cancelled, suspended or revoked. On November 28, 1942, we promulgated Rule X-17A-5 under section 17(a) of the act. That rule provides, among other things, that commencing January 1, 1943, every registered broker and dealer must file with this Commission during each calender year a report of his financial condition. Promulgation of the rule was announced by publication in the FEDERAL REGISTER, by release to the public press, and by distribution to the mailing list.

Registrant did not file the required reports in 1951 and in a number of preceding years. We find that by his failure to file such reports he willfully violated section 17 (a) of the act and Rule X-17A-5.[2] However, we do not consider that under the facts of the case revocation, rather than withdrawal of his registration, is in the public interest. While the withdrawal of registration after the institution of revocation proceedings is not a matter of right, it may be permitted in our discretion if it appears to us that such withdrawal would be consistent with the public interest and the protection of investors.[3] As noted, registrant has not been actively engaged in the securities business since 1942. Under these circumstances and in view of the nature of the violation we have found, we are of the opinion that the public interest and the protection of investors are adequately served by permitting withdrawal of registrant's broker-dealer registration.

Accordingly, it is ordered, Pursuant to section 15 (b) of the Securities Exchange Act of 1934, that withdrawal of the registration as a broker and dealer of Herbert N. Odell, doing business as Odell & Co., be and it hereby is permitted to become effective forthwith, and that this proceeding under section 15 (b) of the act be and it hereby is discontinued.

By the Commission (Chairman Cook and Commissioners McEntire and Adams, Commissioner Rowen being absent and not participating).

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 52-7617; Filed, July 11, 1952; 8:45 a. m.]

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[1] Section 15 (b) provides in part: "The Commission shall, after appropriate notice and opportunity for hearing, by order * * * revoke the registration of any broker or dealer if its finds that such * * * revocation is in the public interest and that (1) such broker or dealer * * * (D) has willfully violated any provision of the Securities Act of 1933, as amended, or of this title, or of any rule or regulation thereunder * * * Any registered broker or dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission."

[2] See Sidney Ascher, Securities Exchange Act Release No. 4474 (July 27, 1950); Henry Leach, Securities Exchange Act Release No. 3877 (November 7, 1946).

[3] Monroe Marks, 9 S. E. C. 609 (1941); Henry Leach, *supra*, note 1.

BOSTON STOCK EXCHANGE

NOTICE OF PROPOSAL TO DECLARE EFFECTIVE PLAN FILED FOR DISPOSAL OF CERTAIN DOCUMENTS

Notice is hereby given that the Securities and Exchange Commission has under consideration a plan filed on June 30, 1952, by the Boston Stock Exchange pursuant to § 240.17a-6 (Rule X-17A-6) under the Securities Exchange Act of 1934 for the disposal of all applications, reports and documents filed with that Exchange prior to January 1, 1947, pursuant to sections 12, 13, 14, and 16 of the Securities Exchange Act of 1934, or any rule or regulation promulgated by the Commission pursuant to any of such sections; except that the Exchange proposes to keep on file for an indefinite period the original applications for registration under the Securities Exchange Act of 1934. The Exchange intends to commence disposing of the specified material as soon as practicable after the Commission has declared its plan effective. The plan also contemplates that thereafter, as soon as practicable after January 1st of each year, regular disposition will be made of similar material which has been on file with the Exchange more than five years.

Information contained in the material proposed to be disposed of pursuant to the plan of the Boston Stock Exchange is on file with the Commission where it will continue to be available.

The Securities and Exchange Commission proposes to declare the plan of the Boston Stock Exchange effective on condition that if at any time it appears to the Commission necessary or appropriate in the public interest or for the protection of investors so to do, the Commission may suspend or terminate the effectiveness of said plan by sending at least ten days' written notice to the Exchange.

These proposals are made pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections

17 (a), 23 (a), and 24 (b) thereof and Rule X-17A-6 thereunder. All interested persons are invited to submit their views and comments in writing to the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., on or before July 28, 1952.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

JULY 3, 1952.

[F. R. Doc. 52-7618; Filed, July 11, 1952; 8:45 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation 4]

EDIBLE TREE NUTS

NOTICE OF EXTENSION OF SCOPE OF HEARING

Public notice of extension of scope of public hearing ordered for July 28, 1952 on edible tree nuts.

Investigation No. 4 under section 22 of the Agricultural Adjustment Act, as amended.

On June 19, 1952, the United States Tariff Commission ordered a public hearing in the above-entitled investigation for the purpose of receiving information and views from interested parties as to programs of the United States Department of Agriculture which will be in operation for the crop year 1952–53 with respect to almonds, filberts, walnuts, or pecans, and on the question as to what action, if any, should be taken under section 22 with respect to imports of almonds, filberts, walnuts, Brazil nuts, or cashews (17 F. R. 5711).

As was indicated in the above-mentioned announcement, a Presidential proclamation was issued on December 10, 1951 giving effect to the Commission's recommendation for the imposition of a fee, in addition to the duties imposed under the Tariff Act of 1930, of 10 cents per pound on imports of shelled almonds, and blanched, roasted, or otherwise prepared or preserved almonds entered, or withdrawn from warehouse, for consumption during the period October 1, 1951 to September 30, 1952, inclusive, in excess of an aggregate quantity of 4,500,000 pounds, provided that not more than 500,000 pounds of this fee-free quota may consist of blanched, roasted, or otherwise prepared or preserved almonds.

The Commission has received a request from the Imported Nut Section, Association of Food Distributors, Incorporated, dated June 16, 1952, for the modification of the existing proclamation to remove the limitation therein on the quantity of prepared almonds which may be included in the fee-free aggregate quota of 4,500,000 pounds. In view of this request, the Commission on July 7, 1952, ordered that, at the hearing scheduled for July 28, 1952, it will receive the views of interested parties on the question of whether any change should be made in the 500,000-pound limitation on blanched, roasted, or otherwise prepared or preserved almonds which may be included in the fee-free aggregate quota of 4,500,000 pounds for the year ending September 30, 1952, provided for in the President's proclamation of December 10, 1951.

The request of the Imported Nut Section, Association of Food Distributors, Inc., is available for public inspection at the office of the Secretary, United States Tariff Commission, Washington, D. C., and in the New York office of the Tariff Commission located in Room 437 of the Customhouse, where it may be read and copied by persons interested.

I hereby certify that the above extension of the scope of hearing was ordered by the United States Tariff Commission on the 7th day of July 1952.

Issued: July 9, 1952.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 52-7668; Filed, July 11, 1952; 8:57 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order 18943]

GESINE EGGERS

In re: Estate of Gesine Eggers, deceased. File No. D-28-1395.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Public Law 181, 82d Cong., 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Gesche Bischoff, Meta Wilkens, Henrich Wilkens and Gesine Wilkens, his wife, and Marie Ringen, whose last known address is Germany, on or since December 11, 1941 and prior to January 1, 1947, were residents of Germany and are, and prior to January 1, 1947 were, nationals of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraph 1 hereof, and each of them, in and to the trust created under the will of Gesine Eggers, deceased, is property which is and prior to January 1, 1947 was within the United States, owned or controlled by, payable or deliverable to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

3. That such property is in the process of administration by Raymond Reisler, Trustee, acting under the judicial supervision of the Surrogate's Court of Kings County, New York;

and it is hereby determined:

4. That the national interest of the United States requires that such persons be treated as persons who are and prior to January 1, 1947, were nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 8, 1952.

For the Attorney General.

[SEAL] PAUL V. MYRON, *Deputy Director, Office of Alien Property.*

[F. R. Doc. 52-7660; Filed, July 11, 1952; 8:55 a. m.]

[Vesting Order 18944]

FRAU MARIE HOFMANN

In re: Stock owned by Frau Marie Hofmann, also known as Frau Marie Hell Hofmann. F-28-22096.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Public Law 181, 82d Cong., 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Frau Marie Hofmann, also known as Frau Marie Hell Hofmann, whose last known address is Munchen, Germany, on or since December 11, 1941, and prior to January 1, 1947, was a resident of Germany and is, and prior to January 1, 1947 was, a national of a designated enemy country (Germany);

2. That the property described as follows: Ten (10) shares of Class B stock of American Bemberg Corporation, New York City, evidenced by a certificate numbered CB4001, registered in the name of and presently in the custody of Kidder, Peabody & Co., 17 Wall Street, New York, New York, in an account in the name of "Messrs. Gebruder Bethman, Frankfurt A/M, Germany", together with all declared and unpaid dividends thereon, and any and all rights of exchange thereunder,

subject to any lien against, or other security interest in the aforesaid property held by Kidder, Peabody & Co., is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Frau Marie Hofmann, also known as Frau Marie Hell Hofmann, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That the national interest of the United States requires that the person identified in subparagraph 1 hereof, be treated as a person who is and prior to

January 1, 1947, was a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 8, 1952.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 52-7661; Filed, July 11, 1952; 8:55 a. m.]

[Vesting Order 18945]

HOUSING AND REALTY IMPROVEMENT CO.

In re: Bank accounts owned by Housing and Realty Improvement Company, Berlin, also known as Wohnhaus-Grundstücks-Verwertungs-Aktiengesellschaft AM Lehniner Platz. F-28-6541; A-1.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Public Law 181, 82d Cong., 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Housing and Realty Improvement Company, Berlin, also known as Wohnhaus-Grundstücks-Verwertungs-Aktiengesellschaft AM Lehniner Platz, the last known address of which is 59 Cicerostrasse, Berlin, Germany, is a corporation, partnership, association or other business organization which on or since December 11, 1941, and prior to January 1, 1947, was organized under the laws of and had its principal place of business in Germany and is, and prior to January 1, 1947 was, a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation of J. & W. Seligman & Co., 65 Broadway, New York 6, New York, in the amount of $507.50, as of August 14, 1951, arising out of funds held by the aforesaid J. & W. Seligman & Co., as Fiscal Agent, for payment of coupons, maturing on May 15, 1931, November 15, 1932, May 15, 1933 and November 15, 1933, detached from and/or appurtenant to the Housing and Realty Improvement Company, Berlin, First (Closed) Mortgage Twenty Year Sinking Fund 7 Percent Gold Bonds, due November 15, 1946, together with any and all accruals thereto, and any and all rights to demand, enforce, and collect the same, less all lawful charges, by said J. & W. Seligman & Co., against the said amount, accrued or made and heretofore or hereafter licensed under Executive Order 8389, as amended,

b. That certain debt or other obligation of J. & W. Seligman & Co., 65 Broadway, New York 6, New York, in the amount of $383.25, as of August 14, 1951, arising out of funds held by the aforesaid J. & W. Seligman & Co., as Fiscal Agent, for payment of coupons, maturing on May 15, 1934, detached from and/or appurtenant to the Housing and Realty Improvement Company, Berlin, First (Closed) Mortgage Twenty Year Sinking Fund 7 Percent Gold Bonds, due November 15, 1946, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, less all lawful charges, by the said J. & W. Seligman & Co., against the said account, accrued or made and heretofore or hereafter licensed under the Executive Order 8389, as amended,

c. That certain debt or other obligation of J. & W. Seligman & Co., 65 Broadway, New York 6, New York, in the amount of $27,852.75, as of August 14, 1951, arising out of funds held by the aforesaid J. & W. Seligman & Co., as Fiscal Agent, in a Reserve Fund account, entitled Housing and Realty Improvement Company, Berlin, First (Closed) Mortgage Twenty Year Sinking Fund 7 Percent Gold Bonds, due November 15, 1946, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same, less all lawful charges, by the said J. & W. Seligman & Co., against the said account, accrued or made and heretofore or hereafter licensed under Executive Order 8389, as amended,

d. That certain debt or other obligation of J. & W. Seligman & Co., 65 Broadway, New York 6, New York, in the amount of $94.46, as of August 14, 1951, arising out of funds held by the aforesaid J. & W. Seligman & Co., as Fiscal Agent, in a redemption account, entitled Housing and Realty Improvement Company, Berlin, First (Closed) Mortgage Twenty Year Sinking Fund 7 Percent Gold Bonds, due November 15, 1946, together with any and all accruals thereto and any and all rights to demand, enforce and collect the same, less all lawful charges, by the said J. & W. Seligman & Co., against the said account, accrued or made and heretofore or hereafter licensed under Executive Order 8389, as amended, and

e. Those certain debts or other obligations of J. & W. Seligman & Co., 65 Broadway, New York 6, New York, in the respective amounts of $1.25 and $4.57, as of August 14, 1951, arising out of funds held by the aforesaid J. & W. Seligman & Co., as Fiscal Agent, in a coupon and general account respectively, entitled Housing and Realty Improvement Company, Berlin, First (Closed) Mortgage Twenty Year Sinking Fund 7 Percent Gold Bonds, due November 15, 1946, together with any and all accruals thereto, and all lawful charges, by the said J. & W. Seligman & Co., against the said account, accrued or made and heretofore or hereafter licensed under Executive Order 8389, as amended,

is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Housing and Realty Improvement Company, Berlin, also known as Wohnhaus-Grundstücks-Verwertungs-Aktiengesellschaft AM Lehniner Platz, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That the national interest of the United States requires that the person identified in subparagraph 1 hereof, be treated as a person who is and prior to January 1, 1947, was a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 8, 1952.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 52-7662; Filed, July 11, 1952; 8:55 a. m.]

[Vesting Order 18946]

SELMA LEHMANN

In re: Claim owned by Selma Lehmann, also known as Selma Schein Lehmann. D-28-8305-H-1.

Under the authority of the Trading With the Enemy Act, as amended (50 U. S. C. App. and Sup. 1-40); Public Law 181, 82d Cong., 65 Stat. 451; Executive Order 9193, as amended by Executive Order 9567 (3 CFR 1943 Cum. Supp.; 3 CFR 1945 Supp.); Executive Order 9788 (3 CFR 1946 Supp.) and Executive Order 9989 (3 CFR 1948 Supp.), and pursuant to law, after investigation, it is hereby found:

1. That Selma Lehmann, also known as Selma Schein Lehmann, whose last known address is 104 West End Alle, Berlin-Charlottenburg, Germany, on or since December 11, 1941, was a resident of Germany and is, and prior to January 1, 1947 was, a national of a designated enemy country (Germany);

2. That the property described as follows: The claim against the State

of New York and the Comptroller of the State of New York arising by reason of the collection or receipt by said Comptroller of the following: That sum of money previously held by Postal Life Insurance Company, 511 Fifth Avenue, New York, New York, and representing the interest of Selma Lehmann, also known as Selma Schein Lehmann, as the beneficiary of a contract of life insurance, policy number 238010, issued November 19, 1929 to Rudolf Schein who died November 28, 1939 at Miami, Florida, which sum was deposited on or about September 22, 1947, with the Comptroller of the State of New York in accordance with the provisions of Section 700 Chapter 697 of the Abandoned Property Law (1943) of the State of New York,

and any and all rights to file, demand, enforce and collect the aforesaid claim,

is property which is and prior to January 1, 1947, was within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Selma Lehmann, also known as Selma Schein Lehmann, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That the national interest of the United States requires that the person identified in subparagraph 1 hereof, be treated as a person who is and prior to January 1, 1947, was a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on July 8, 1952.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 52-7663; Filed, July 11, 1952; 8:56 a. m.]

FRITZ ACKER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Fritz Acker, Gluckensteinweg 8, Bad Homburg, Germany; Claim No. 43067, Vesting Orders Nos. 2571 and 10117; $4,383.88 in the Treasury of the United States. All right, title, interest and claim of Fritz Acker in and to the Estate of Rosalie Reinhart, deceased.

Executed at Washington, D. C., on July 7, 1952.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 52-7665; Filed, July 11, 1952; 8:56 a. m.]